

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4

5 -----) MDL No. 2804

6 IN RE: NATIONAL PRESCRIPTION)

7 OPIATE LITIGATION)

8 -----) Case No. 17-md-2804

9 THIS DOCUMENT RELATES TO:)

10 ALL CASES)

11 -----) Hon. Dan A. Polster

12

13 HIGHLY CONFIDENTIAL

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15

16 VIDEOTAPED DEPOSITION OF

17 DEBORAH BISH

18

19 February 1, 2019

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21 Toledo, Ohio

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The videotaped deposition of DEBORAH BISH,
called by the Plaintiffs for examination, taken
pursuant to the Federal Rules of Civil Procedure of
the United States District Courts pertaining to the
taking of depositions, taken before JULIANA F.
ZAJICEK, a Registered Professional Reporter and a
Certified Shorthand Reporter, at the Renaissance
Toledo Downtown Hotel, 444 North Summit Street,
Toledo, Ohio, on February 1, 2019, at 8:06 a.m.

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11	WALGREENS - BISH EXHIBIT	MARKED FOR ID
12	No. 1 4/5/12 E-mail chain, Subject:	16
	Jupiter/Perrysburg C2 Orders;	
13	WAGMDL00751658 - 659	
14	No. 2 6/28/12 E-mail chain with	19
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15	from S. Thoss;	
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23	and Loss of Controlled Drugs,"	
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24	2/15/05; WAG00001910 - 911	

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3	No. 7	Walgreens policy re: RX	76
4		Questionable Order Quantity, Orig	
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12		Date 10/07/2013;	
13		WAGMDL00749381 - 407	
14	No. 10	6/19/13 e-mail chain with	140
15		attachments, Subject: FW:	
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18		WAGMDL00316771 - 785	
19	No. 11	5/9/12 e-mail chain, Subject: FW:	147
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21		WAGMDL00751871 - 872	
22	No. 12	5/29/12 e-mail chain, Subject: RE:	182
23		Suspicious Drug process;	
24		WAGMDL00751808 - 810	
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28		WAGMDL00709510 - 512	
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5		WAGMDL00208715 - 716	
6	No. 17	U.S. DOJ DEA Letter to Walgreen Co. 12/27/07; WAGMDL00753976 - 77	253
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8	No. 18	Internal Audit Report, 12/22/08, Subject: DEA Compliance -	283
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21	No. 25	2/8/13 e-mail chain Subject: FW: Important DEA Reminder;	422
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3	No. 27	2/20/13 e-mail chain, Subject: Re:	436
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4		WAGMDL00357519 - 521	
5	No. 28	2/26/13 e-mail chain, Subject: RE:	445
		Perrysburg CIII-CV - follow up;	
6		WAGMDL00358459 - 462	
7	No. 29	Meeting invite sent 2/27/13,	458
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1 THE VIDEOGRAPHER: We are now on the record.

2 My name is Michael Newell. I am a
3 videographer for Golkow Litigation Services. Today's
4 date is February 1st, 2019, and the time is 8:06 a.m.

5 This deposition is being held in Toledo
6 Ohio in the matter of National Prescription Opiate
7 Litigation for the Northern District of Ohio, Eastern
8 Division.

9 The deponent today is Deborah Bish.

10 Will counsel please identify themselves.

11 MR. GADDY: Jeff Gaddy with Levin Papantonio for
12 the Plaintiffs.

13 MS. SCHUCHARDT: Margaret Schuchardt, Jaszczuk
14 P.C., on behalf of AmerisourceBergen Drug Corporation.

15 MS. SWIFT: Kate Swift for Walgreens.

16 MS. MIKA: Caitlin Mika for the Endo and Par
17 entities.

18 MS. SWIFT: Did you hear that?

19 THE COURT REPORTER: No.

20 MR. GADDY: One more time, please.

21 MS. MIKA: Caitlin Mika, M-i-k-a, for the Endo
22 and Par entities.

23 THE VIDEOGRAPHER: The court reporter today is
24 Juliana Zajicek, who will now swear in the witness.

1 DEBORAH BISH,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 EXAMINATION

5 BY MR. GADDY:

6 Q. Good morning, Ms. Bish.

7 A. Good morning.

8 Q. Could you please state your name for the
9 record?

10 A. Deborah Bish.

11 Q. And you work at Walgreens, correct?

12 A. Yes.

13 Q. How long have you worked with Walgreens?

14 A. 16 years, I think.

15 Q. Has your entire time at Walgreens been in
16 the Perrysburg distribution center?

17 A. Yes.

18 Q. At some period of time while you were with
19 Walgreens in Perrysburg, were you the C-II function
20 manager?

21 A. Yes.

22 Q. From what period of time?

23 A. From the time they opened it until the
24 time they closed it.

1 Q. Okay.

2 A. I don't remember the years.

3 Q. When you started at Perrysburg, were you
4 the C-II function manager?

5 A. No.

6 Q. Okay. Do you remember when you became the
7 C-II function manager?

8 A. Not really. I don't know the year.

9 Q. Okay. Can you give me an approximation?

10 A. I was in Rx for a year-and-a-half. I
11 think I was in receiving for a year. I think I
12 started in 2002. So probably 2005, '6, somewhere in
13 there.

14 Q. And when did you stop being the C-II
15 function manager?

16 A. Whenever they told us we were going to
17 outsource our C-IIs, and I don't remember that date
18 either.

19 Q. Okay. Can you give me an approximation?

20 A. I just don't know. I was there eight
21 years, I think, as a C-II manager. I was -- I did
22 that for eight years, but I don't know exactly when I
23 started. Therefore, I can't tell you exactly when I
24 ended.

1 Q. Okay. So if you started in approximately
2 2005, you would have ended in approximately 2013?

3 A. '13, yeah, if that's the right year.

4 Q. Were you the only C-II function manager
5 that ever served at Perrysburg?

6 A. Yes.

7 Q. Did Walgreens ever distribute Schedule II
8 drugs out of Perrysburg prior to you becoming the C-II
9 function manager?

10 MS. SWIFT: Objection; foundation.

11 BY THE WITNESS:

12 A. Not that I know of.

13 BY MR. GADDY:

14 Q. Prior to you becoming the C-II function
15 manager in Perrysburg, was Walgreens distributing
16 Schedule III controlled substances?

17 A. Yes, they were, um-hum.

18 Q. Was Walgreens distributing Schedule III
19 controlled substances when you started at Perrysburg?

20 A. I believe so. I was not in charge of
21 that, but I believe so, um-hum.

22 Q. Okay. And it's accurate to say that
23 Walgreens no longer distributes any controlled
24 substances from Perrysburg?

1 A. They no longer distribute C-IIs, I don't
2 know about III through Vs because I'm in receiving
3 now. I don't...

4 Q. You said that you -- you had to give us an
5 approximation as far as the date that Walgreens
6 stopped distributing Schedule II controlled
7 substances.

8 Is there any time period or event that you
9 correlate that stoppage with?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. Yeah, I'm not -- I'm not sure what you
13 mean. I -- I just know they decided they were going
14 to not distribute C-IIs and all of our orders started
15 going to AmerisourceBergen, I believe.

16 BY MR. GADDY:

17 Q. While you were the C-II function manager
18 at Perrysburg, how many stores did Perrysburg
19 distribute controlled sub -- Schedule II controlled
20 substances to?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. Did they -- how many did they distribute
24 C-IIs to?

1 BY MR. GADDY:

2 Q. Correct.

3 A. Well, it changed. I mean, I think we
4 started with 700 stores, but as we grew and took on
5 new -- like when we opened the Connecticut Northeast,
6 we took those stores so it grew. And I think
7 eventually we were up to around 5,000 out of the 8,000
8 that we had at the time.

9 Q. So of the approximately 8,000 total
10 Walgreens, Perrysburg was distributing Schedule II
11 controlled substances to approximately 5,000 of them?

12 A. To my recollection. I can't swear to
13 that.

14 Q. Okay. And were these in -- can you give
15 me an overview of the -- of some of the different
16 states that Perrysburg would have distributed Schedule
17 IIs to?

18 A. We started with Indiana, Illinois, Ohio,
19 Michigan. And then as we grew we started -- then I
20 said, like I said, we took on the Northeast, like
21 Connecticut and New York, and then when Jupiter shut
22 down, we took down -- took on the Florida, Georgia,
23 Tennessee, Alabama stores, I believe.

24 Q. Okay. Did you distribute to Kentucky?

1 A. I think so. I can't remember any store in
2 Kentucky exactly, but I would think so if it was
3 within that region.

4 Q. Did you distribute controlled substances
5 into West Virginia?

6 A. Again, I don't remember a specific store,
7 but it would make sense that we did.

8 Q. And you mentioned -- or you referenced
9 Jupiter shutting down.

10 Do you know why Jupiter shut down?

11 A. No, I was never told. I was never told.

12 Q. As Jupiter shut down, that increased
13 the -- the burden on Perrysburg, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. It increased our stores. I didn't think
17 it was a burden, but it increased our stores.

18 BY MR. GADDY:

19 Q. Sure. And sorry. That was a bad
20 question.

21 It increased the number of stores that you
22 served out of Perrysburg, correct?

23 A. That's correct.

24 (WHEREUPON, a certain document was

1 marked Walgreens - Bish Deposition
2 Exhibit No. 1, for identification, as
3 of 02/01/2019.)

4 BY MR. GADDY:

5 Q. I'm going to show you what I'll mark as
6 Exhibit No. 1, P-WAG 249.

7 A. Um-hum.

8 Q. And do you see this is an e-mail dated
9 April 5, 2012?

10 A. Um-hum.

11 Q. And it's an e-mail from Matt Nye?

12 A. Yes.

13 Q. Do you know who Matt is?

14 A. Yes.

15 Q. And he works in the computer room in
16 Perrysburg?

17 A. Yes.

18 Q. Okay. And it looks like you are copied on
19 this e-mail?

20 A. Yes.

21 Q. And the subject is "Jupiter/Perrysburg
22 C-II Orders."

23 Do you see that?

24 A. Um-hum, yes.

1 Q. It says:

2 "Hi Linda, I tried giving you a call and
3 ended up leaving a long-winded message that I just
4 deleted, figuring an e-mail would make more sense.
5 Anyway, I'm sure by now you know what's happening in
6 the Jupiter with the DEA."

7 Do you see that?

8 A. Um-hum.

9 Q. Do you know what's being referred to
10 there?

11 A. I'm assuming he means the fact that --
12 that they shut down. I don't know what he means.
13 I -- he didn't tell me.

14 Q. Okay. You said that you didn't -- you
15 told me a minute ago that you didn't know why Jupiter
16 shut down. You -- you did know that the DEA went
17 into -- to Jupiter with warrants and subpoenas,
18 correct?

19 A. I heard that, yes, but I was never told
20 why they shut down or if -- what happened. I was just
21 told they were there.

22 Q. Okay. But you knew that the shutdown of
23 Jupiter happened -- happened after the DEA went into
24 the Jupiter distribution center, correct?

1 A. Yes, I did know that.

2 Q. Okay. It says:

3 "Anyway, I'm sure by now you know what's
4 happening in Jupiter with the DEA, but if not, they
5 might temporarily be unable to ship C-II drugs to
6 their stores due to some issues they are having with
7 their licenses."

8 Do you see that?

9 A. Um-hum.

10 Q. It says:

11 "We're working on the possibility of us
12 temporarily taking over their C-II stores until they
13 get things sorted out and the biggest problem is that
14 C-II is physically too small to fit more people in to
15 work so we need to add an additional shift to really
16 make this happen."

17 Do you see that?

18 A. Um-hum.

19 Q. After looking at this e-mail, do you
20 recall that there were some changes that had to be
21 made at Perrysburg to accommodate the new stores that
22 were brought on because of the shutdown at Jupiter?

23 A. I know we had to make changes because of
24 new stores being brought on. I don't know they were

1 all from Jupiter, but as we increased stores, we had
2 to increase people to handle the volume, yes.

3 Q. And does this -- is this timeframe
4 consistent with your recollection in early 2012,
5 April 2012 is when Jupiter began having problems after
6 the DEA had come in?

7 MS. SWIFT: Objection; foundation.

8 BY THE WITNESS:

9 A. Yeah, I don't -- I don't remember,
10 frankly, but, again, I don't know they were having
11 problems. I just know they -- they weren't going to
12 ship C-IIs any more and we were getting their stores.

13 BY MR. GADDY:

14 Q. Okay. And -- but this e-mail is from
15 April of 2012, correct?

16 A. Right.

17 Q. I'll show you what I'll mark as Exhibit 2.

18 (WHEREUPON, a certain document was
19 marked Walgreens - Bish Deposition
20 Exhibit No. 2, for identification, as
21 of 02/01/2019.)

22 BY MR. GADDY:

23 Q. Do you recognize this as being a --
24 another e-mail?

1 A. Yes, but I don't know either of those
2 people.

3 Q. Okay. And I'm really just going to be
4 asking you about the attachment to this.

5 A. Okay.

6 Q. If you turn the page, you see there is --
7 it looks like it's a draft, some draft language, and
8 then at the top it says "For the Czar."

9 Do you see that?

10 A. Um-hum.

11 Q. Do you know what this is referring to?

12 A. No. I don't know what is -- what "the
13 Czar" is either.

14 Q. Okay. And it says: -- if you look at the
15 first page, you see it's a Walgreens e-mail, correct,
16 Walgreens e-mail addresses?

17 A. I see Sue Thoss's e-mail address. Oh,
18 and, yeah, Anika is Walgreens, yes.

19 Q. Okay. And the -- and the e-mail went to
20 Tasha Polster, do you see that, the very top one?

21 A. Uh-huh.

22 Q. And do you know who Tasha is?

23 A. No.

24 Q. Have you ever heard of her?

1 A. No, uhn-uhn.

2 Q. Have you ever interacted with Tasha
3 Polster that you are aware of?

4 A. No, not that I'm aware of.

5 Q. Have you ever received any training or
6 guidance related to controlled substances from Tasha
7 Polster?

8 A. Not that I'm aware of.

9 Q. Okay.

10 A. Uhn-uhn.

11 Q. If you look at the attachment on the next
12 page, it says "From the Czar" at the top. It says:

13 "Currently we have 12 parent buildings
14 around the Continental" -- "Continental US that have
15 the ability to handle C-III through V drugs and PSE."

16 And that refers to pseudoephedrine,
17 correct?

18 A. Yes.

19 Q. It says:

20 "One of the 12 facilities in Florida
21 (Jupiter) we have shifted those items to a nearby
22 facility in Orlando, Florida."

23 Do you see that?

24 A. Yes.

1 Q. If you skip a paragraph there, the next --
2 first part of the next sentence, it says:

3 "There are three facilities that carry
4 C-II product."

5 Do you see that?

6 A. Yes.

7 Q. And, again, I think if we flip back to the
8 first page, this is in the June 2012 timeframe.

9 Do you see that?

10 A. Um-hum.

11 Q. What three facilities did Walgreens have
12 that carried C-II?

13 A. It was Woodland, California; Jupiter,
14 Florida; and Perrysburg.

15 Q. Okay. If you skip another paragraph and
16 start where it says "these facilities," do you see
17 where I am?

18 A. Yep.

19 Q. It says:

20 "These facilities are located in
21 Perrysburg, Ohio servicing approximately 5200 stores;
22 Woodland, California approximately 1600 stores; and
23 Jupiter, Florida approximately 1200 stores."

24 Do you see that?

1 A. Yes.

2 Q. It says:

3 "Jupiter previously had 2400 stores, but
4 1200 were shifted to Perrysburg due to the concerns
5 with the DEA."

6 Did I read that correctly?

7 A. Yes.

8 Q. Is that consistent with your memory that
9 as far as the number of stores that Perrysburg --

10 A. I don't know.

11 Q. -- was servicing and the fact that
12 approximately 1200 stores were shifted to Perrysburg
13 due to concerns with the DEA?

14 A. I know we got Jupiter stores. I didn't
15 know it was -- I was never told it was over concerns
16 from the DEA, but we did get -- I can't tell you if it
17 was 1200, though. I don't remember that.

18 Q. And we'll talk more about this in a little
19 bit, but did anybody ever tell you about what any of
20 the concerns were that the DEA had?

21 A. No.

22 Q. Did anybody ever tell you that Walgreens
23 entered into a settlement agreement with the DEA?

24 A. No.

1 Q. Did anybody ever tell you that the
2 settlement agreement that Walgreens entered into with
3 the DEA applied to all distribution centers that
4 Walgreens had?

5 A. Well, if they never told me about it, then
6 they wouldn't have told me what it entailed. They
7 never told me about it.

8 Q. When -- we've used the term or the phrase
9 "C-II"?

10 A. Um-hum.

11 Q. What does that mean to you?

12 A. Class II drugs.

13 Q. Okay. How would you just in your own
14 words --

15 A. High street value, that's what I was told.

16 Q. I'm sorry.

17 A. They had a high street value.

18 Q. Okay. And what does that mean to you?

19 A. That means to me that if you sell them on
20 the street you make a lot of money doing it, that's
21 what I -- that's what it means to me.

22 Q. Okay. Can you give me an example of some
23 of those drugs?

24 A. OxyContin, morphine, oxycodone, fentanyl.

1 Q. Okay. And so when you were the C-II
2 function manager, these were the types of drugs that
3 were under your purview?

4 A. Yes.

5 Q. I'm going to -- as I ask you questions
6 today, I'm going to probably use the -- the term
7 "distribution timeframe".

8 A. Okay.

9 Q. And just so you're clear about what I'm
10 referring to, is I'm asking only about the time when
11 Walgreens was distributing controlled substances.

12 A. C-IIs or...

13 Q. Sure.

14 A. Okay.

15 Q. Sure. C-IIs for your perspective -- well,
16 let me -- let me ask it this way: Have you ever had
17 any responsibilities or duties dealing with C-III
18 through V drugs?

19 A. No.

20 Q. Okay. And if I was to ask you specifics
21 about the -- the methodologies that are utilized at
22 Perrysburg to distribute C-IIIs through Vs, would you
23 be able to answer --

24 A. No.

1 Q. -- any questions about that?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. No.

5 BY MR. GADDY:

6 Q. So -- so for the purposes of your
7 clarification, yes, I'll be asking you about C-II
8 drugs since that's -- that's your -- your area of
9 experience with Walgreens?

10 A. Right.

11 Q. Correct?

12 A. Right.

13 Q. Okay. So when I refer to the distribution
14 timeframe, I'm only asking you about the period in
15 which Walgreens distributed Schedule II drugs.

16 A. Okay.

17 Q. Okay.

18 And your best guess at what that time
19 period is, is approximately 2005 through approximately
20 2013?

21 MS. SWIFT: Object to the extent it
22 mischaracterizes the testimony.

23 BY THE WITNESS:

24 A. Right, because I don't really remember the

1 years. I just don't.

2 BY MR. GADDY:

3 Q. Let me show you what I'm going to mark as
4 Exhibit No. 3.

5 (WHEREUPON, a certain document was
6 marked Walgreens - Bish Deposition
7 Exhibit No. 3, for identification, as
8 of 02/01/2019.)

9 BY MR. GADDY:

10 Q. And tell me if you recognize this as being
11 your -- a copy of your -- of your LinkedIn page?

12 A. Well, I never go to LinkedIn, but this --
13 this looks like me, yes.

14 Q. Okay. At some point in time do you -- do
15 you recall creating this page?

16 A. At some point in time, yes.

17 Q. Okay. Do you know about when that would
18 have been?

19 A. No. A long time ago.

20 Q. Okay. And do you see it has got your name
21 at the top?

22 A. Um-hum.

23 Q. And just below there it says "Function
24 Manager at Walgreens"?

1 A. Right.

2 Q. Is that still your title today?

3 A. Yes. We are all function managers.

4 Q. And under Experience, we are going to go
5 in reverse order, but just so I can kind of try to get
6 a sense of how up-to-date this is, it says that you've
7 been a function manager at Walgreens from 2 --
8 October of 2002 through the present.

9 Do you see that?

10 A. Yes.

11 Q. And what I'm trying to figure out is, is
12 when you think the present would be for the purpose of
13 this particular profile?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I don't understand what you are asking me.

17 BY MR. GADDY:

18 Q. Sure.

19 So the present could be today if you
20 created this last night. And I think I understand you
21 to say that you did not create this last night, so --

22 A. No. I haven't been on LinkedIn for years,
23 so. And I only did this because my daughter told me I
24 should, but, yeah, I don't know when I put this on

1 there.

2 Q. Okay.

3 A. So if you are asking me if it's not
4 updated, that would probably be right.

5 Q. I'm asking you when you think it is
6 updated through?

7 A. I have no idea.

8 Q. Okay.

9 A. I really don't. I don't know.

10 Q. Okay. Flip to the second page for me,
11 please.

12 A. Okay.

13 Q. And it says at the bottom you went to Kent
14 State University?

15 A. Yes.

16 Q. And did you get a degree from Kent State?

17 A. No.

18 Q. How many years did you -- did you attend
19 classes there?

20 A. I went there for one year and I went to
21 Scottsville Community College for one year, also in
22 Michigan, because that's where I lived at the time.

23 Q. And it looks like was this Quality Farm &
24 Fleet Distribution Center, was that your first job out

1 of college?

2 A. Out of college, no.

3 Q. What else did you do?

4 A. I worked for a CPA for a year.

5 Q. Okay.

6 A. And then I worked for a factory for a year
7 and did data processing. This was the first
8 supervisor job I had, management job.

9 Q. Okay. What did you do for Quality Farm &
10 Fleet Distribution Center?

11 A. We just handled all of the returns that
12 came back from customers, getting them back to vendors
13 for credit.

14 Q. Okay. And you did that for just over
15 three years?

16 A. Yes.

17 Q. And then your -- it looks like your next
18 position was at Kohl's Department Stores, also working
19 with returns?

20 A. Right.

21 Q. And you did that for a little over
22 eight-and-a-half years?

23 A. Yep.

24 Q. Anything in either of those two positions,

1 the job at Kohl's or the job at Quality Farms, that
2 had anything to do with controlled substances?

3 A. No.

4 Q. Okay. Any interact -- any job duties or
5 responsibilities at Kohl's or Quality Farm that had
6 you dealing with federal regulations regarding
7 controlled substances?

8 A. No.

9 Q. Anything dealing with federal regulations
10 at all?

11 A. No.

12 Q. Okay. Anything -- nothing, I assume,
13 dealing with the DEA at all?

14 A. No.

15 Q. Okay. And I assume nothing deal with
16 pharmaceuticals at all?

17 A. No.

18 Q. Okay. And if you flip back to the first
19 page, it looks like you started at Walgreens in 2002?

20 A. Um-hum.

21 Q. And let me ask you about a couple of the
22 entries --

23 A. Okay.

24 Q. -- that are made here. The first thing,

1 it says:

2 "Managed and participated in initial
3 startup of distribution center/departments."

4 Do you see that?

5 A. Yes.

6 Q. What are you referring to there?

7 A. Well, they hired the manager six months
8 before they actually started operations. So that
9 first six months we went out to other DCs and trained.
10 And I was initially hired to run Rx on day shift, the
11 Rx department.

12 Q. Okay. So when you were hired by
13 Walgreens, was Perrysburg not operational?

14 A. No, they weren't.

15 Q. Okay. And so if you started in October
16 of 2002, about how long did it -- did it -- was it
17 after you started that Perrysburg became operational?

18 A. They started receiving in January of 2003
19 to get the freight in and then they started outbound
20 operations in I think March, March or April of 2003.

21 Q. Okay. And what was your role during that
22 time period?

23 A. I was the Rx function manager on day
24 shift.

1 Q. Okay. What does that mean?

2 A. That means I managed the process of
3 bringing in our -- any of the Rx freight, picking it,
4 stocking it and shipping it out.

5 Q. By "Rx," do you mean pharmacy?

6 A. Yeah.

7 Q. Okay. So that would be prescription
8 drugs?

9 A. Right.

10 Q. Okay. And when you were doing that in
11 early 2003, did that include Schedule III to V drugs?

12 A. I -- ooh, I don't remember. I -- I don't
13 remember if it did or not. I don't remember. Sorry.

14 Q. No, that's fine.

15 Below that first paragraph you list
16 several what you call key accomplishments.

17 Do you see that?

18 A. Um-hum, um-hum.

19 Q. And I'm looking all of the way down at the
20 bottom of the page, the very last entry. It starts
21 "2006."

22 Do you see that?

23 A. Yep.

24 Q. It says:

1 "2006 - selected to coordinate and manage
2 startup of Class II vault which included the creation
3 of policy and procedures, initial recruitment and
4 training of department."

5 Do you see that?

6 A. Yes.

7 Q. And can you explain to me what you are
8 referring to there?

9 A. Well, because they asked if anyone was
10 interested in -- in running that department and I said
11 I was. So they then sent me to Woodland for two weeks
12 by myself in order to be trained by the manager there
13 and then they sent me to Jupiter to be trained by the
14 manager -- the C-II manager there for a couple of
15 weeks, then I came back.

16 I interviewed people in our building. We
17 don't interview people. Typically it's just by
18 seniority who gets what job. For the vault they
19 allowed me to interview them so I could select, hand
20 select people. I selected eight or ten team members.
21 And then I went back to Flor -- to Woodland,
22 California with those team members, and then I took
23 them to Jupiter as well to be trained and do the job,
24 yeah.

1 Q. Okay. And what was -- what was happening,
2 you all were installing a vault, you all were starting
3 to distribute C-IIs? Explain to me what -- what you
4 were being trained to do.

5 A. At their DCs?

6 Q. Yes.

7 A. At the other DCs?

8 Well, every -- every function, like our
9 SAIL coordinator sat with the SAIL coordinator, their
10 comparable counterpart at those DCs, and went through
11 what their responsibilities were for that job.

12 Q. What -- what was the purpose of this?
13 What was Walgreens beginning to do at Perrysburg?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Well, they were going to start
17 distributing C-IIs, so we had the workforce know how
18 to do that, the right way to do that.

19 BY MR. GADDY:

20 Q. Okay. So this 2006 entry where -- where
21 you were coordinating and managing the startup of this
22 Class C-II vault, that would be the time period that
23 Perrysburg began to distribute C-IIs?

24 MS. SWIFT: Object to form.

1 BY THE WITNESS:

2 A. It appears so. I don't know. I mean, I
3 have 2006. I don't know what month it was, but...

4 BY MR. GADDY:

5 Q. Okay. And was there any -- so the -- so
6 the training that you -- that you underwent involved a
7 couple of weeks at Woodland's and a couple of weeks at
8 Jupiter?

9 A. By myself and then I went back for a
10 couple of weeks with the team members that I had hired
11 and selected. I went back to both DCs with those team
12 members.

13 Q. Okay.

14 A. Yeah.

15 Q. It also says that -- that you were --
16 involvement in that process included the creation of
17 policy and procedures?

18 A. Correct.

19 Q. Can you explain what -- what you mean by
20 that?

21 A. I mean there was nothing in writing, and
22 I'm -- I like policies and proceed -- written policies
23 and procedures, so I took notes the whole time I was
24 at both DCs on both trips and created policies and

1 procedures which I then sent to both of them and said:

2 Is this correct? Did I understand this correctly?

3 And so we had written policies and procedures.

4 Q. Okay. So was your intention to create

5 uniform policies and procedures across the

6 distribution centers?

7 A. Well, yeah, that makes sense. I mean, I

8 don't know that we could be exactly alike because we

9 were different states and I know some states have

10 different laws, but that -- yeah, that was the

11 intention, so we'd all do the same thing.

12 Q. And why would you want them to all be

13 consistent?

14 A. Well, because there is only -- to me there

15 is probably only one way to do it correctly, so you've

16 got to make sure that you are all doing it that way.

17 I...

18 Q. Okay. The last entry in that paragraph

19 says:

20 "Complied with DEA regulations resulting
21 in positive audits."

22 Do you see that?

23 A. Um-hum.

24 Q. What DEA regulations are you referring to

1 there?

2 A. Oh, I don't remember. The audits I think
3 were the internal audits we did every month. That's
4 what -- and we always came out even, so I may have
5 been saying we're -- we're doing -- you know, we are
6 receiving accurately, we are picking accurately, we
7 are taking inventory every day and coming out even,
8 that's why our audits come out even. I'm guessing
9 that's what I was referring to.

10 Q. So when you are referring to audits in
11 this context, you are talking about whether or not
12 there is any drugs missing?

13 A. Yes.

14 Q. Okay. So would it be fair to say that --
15 that there were also audits performed from time to
16 time where either Walgreens internal audit department
17 or the DEA would come in to determine whether or not
18 the distribution center was complying with DEA
19 regulations and audit the compliance with different
20 regulations?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. I don't really know what -- I don't recall
24 internal auditing. I'm not even sure who is in that

1 department. And the DEA only came down once the whole
2 time we were there, that I recall, maybe twice.

3 BY MR. GADDY:

4 Q. Okay. Well --

5 A. But I don't think they did an audit, you
6 know what I'm saying. I don't know what they were
7 doing, but...

8 Q. Well, for example, you -- you are familiar
9 with what a DEA 222 form is, correct?

10 A. Um-hum, right, um-hum.

11 Q. And there's rules and regulations about
12 how that form has to be filled out, correct?

13 A. Right, right.

14 Q. Are you familiar with any internal reviews
15 or audits where either the Walgreens internal audit
16 department or the DEA or maybe some outside
17 independent agency would come into the distribution
18 center, look through your files and your records and
19 tell you, Hey, great, you are filling out the 22
20 form -- 222 forms just how they are supposed to be,
21 or, Hey, you are leaving this line blank and it really
22 needs to be filled in correctly?

23 A. Yes, I do remember that.

24 Q. Okay.

1 A. They came in and we were putting the
2 data -- you have to put the date shift and we were
3 putting it on the top line and then drawing a line
4 down and they said we had to enter it on every line,
5 the entire date.

6 Q. Okay. You said "they came in." Who came
7 in?

8 A. The DEA, I do remember them coming in. It
9 was the two women from Detroit.

10 Q. Okay. And I just kind of picked an
11 example at random. Is that -- that process by which
12 your kind of internal policies and procedures of
13 complying with DEA regulations and that process being
14 audited, did that occur on any recurring basis?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Not that I remember, but I hadn't thought
18 of the 222s until you said that, but not that I
19 recall, no.

20 BY MR. GADDY:

21 Q. Okay.

22 So, let me go back to the last line in
23 your -- in this paragraph here.

24 A. Okay.

1 Q. Because originally you told me that you
2 assumed that the positive audits was just related to
3 the counts of the drugs being correct?

4 A. Of any -- we called them DEA mini audits,
5 yeah.

6 Q. Okay. So when I -- when I look -- when
7 you look at "complied with DEA regulations," did -- do
8 you have an understanding of what you were -- what you
9 meant there?

10 A. No, I couldn't possibly remember what I
11 meant there, but...

12 Q. Okay. Well, there is a lot of different
13 rules and regulations --

14 A. Right.

15 Q. -- from the DEA that apply to Schedule II
16 drugs, correct?

17 A. Right.

18 Q. And as the C-II function manager, would it
19 been -- have been your job to be familiar with those?

20 A. I would try to be familiar with those that
21 are relative to C-IIs and what I did.

22 Q. Okay. And it would have been your job to
23 not only be familiar with them but to make sure that
24 they were followed within the distribution center,

1 correct?

2 MS. SWIFT: Object to the form, vague.

3 BY THE WITNESS:

4 A. I would say if I -- if I knew it was a
5 rule to do that, that was my job to make sure that was
6 done, if that's your question.

7 BY MR. GADDY:

8 Q. I think so.

9 So my question was is that -- let me ask
10 it this way: Was there anybody higher than you in the
11 distribution center as far as responsibilities for
12 Schedule II drugs?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. Just the building manager.

16 BY MR. GADDY:

17 Q. Okay. And who was -- who was that during
18 this distribution time period?

19 MS. SWIFT: Object to form.

20 BY THE WITNESS:

21 A. Steve Kneller, I believe.

22 BY MR. GADDY:

23 Q. Okay. But as far as kind of the subject
24 matter expert with the distribution center on C-IIIs,

1 that was you?

2 A. Yes.

3 MS. SWIFT: Object to the form.

4 BY MR. GADDY:

5 Q. I'll show you what I'll mark as Exhibit

6 No. 4. This is P-WAG 2733.

7 (WHEREUPON, a certain document was

8 marked Walgreens - Bish Deposition

9 Exhibit No. 4, for identification, as

10 of 02/01/2019.)

11 BY THE WITNESS:

12 A. Oh.

13 BY MR. GADDY:

14 Q. Oh, I'm sorry. I gave you one too many.

15 You can hand that to Kate?

16 MS. SWIFT: Do you need one back, Jeff?

17 MR. GADDY: No.

18 BY MR. GADDY:

19 Q. Do you see this is your annual performance
20 review?

21 A. Yes.

22 Q. And I'm just going to look at a couple
23 of -- of highlights out of here.

24 If you look -- and using the number on the

1 bottom right-hand side of the page, if you would turn
2 to, and this is going to be a little bit confusing,
3 but it is actually the second time that it says
4 Page 10 out of 15.

5 A. Mine says out of 17.

6 MS. SWIFT: Yeah, this looks like an incomplete
7 document for the record.

8 MR. GADDY: Well, Kate, I did rip off the
9 salaried information because I didn't think that was
10 relevant, but --

11 MS. SWIFT: It looks like it is missing a couple
12 of the other reviews is all from memory. I'm just
13 going from memory.

14 MR. GADDY: Oh, okay. That's all we took out.

15 BY THE WITNESS:

16 A. Okay. But I have 17. So what page do you
17 want me to go to?

18 BY MR. GADDY:

19 Q. There is actually three -- I think it is
20 three or four different reviews, so flip back towards
21 the front a little bit.

22 A. Oh, I see what you are saying.

23 MS. SWIFT: Then I've got an incomplete version
24 I think is the problem. Mine just goes Page 1 through

1 15.

2 THE WITNESS: Is yours the same as mine? Do you
3 want to see if that's right? Oh, see mine was from 9
4 of 2012.

5 MS. SWIFT: And this one is from 9 of 2011 to
6 August of 2012. It looks like that's why --

7 MS. SCHUCHARDT: Yeah, 2010 and this one is
8 2013.

9 MS. SWIFT: Got it. So we've got little bits
10 and pieces stapled separately.

11 MR. GADDY: Yeah, all right. Let's hand them
12 back, please.

13 MR. SWIFT: I'm going to give them all back to
14 you.

15 MR. GADDY: Thank you.

16 MS. SWIFT: We've already written on some of
17 them. Apologies.

18 MR. GADDY: No problem. Give me just a minute.

19 MR. BEISELL: As long as we have got a second, I
20 just wanted to announce myself. This is Patrick
21 Beisell from Jones Day. I missed the first minute or
22 two.

23 MR. COOPER: I would also like to do the same.
24 Kyle Cooper on behalf of McKesson.

1 BY MR. GADDY:

2 Q. Okay. All right. It looks like we are
3 only going to have the one copy, and it is going to be
4 Exhibit No. 4, and that is the performance review from
5 9/1/11 through 8/31/12?

6 A. Correct.

7 Q. Do you see that, Ms. Bish?

8 A. Yes.

9 Q. And sorry about the confusion there.

10 A. That's all right.

11 Q. But if you turn to Page 10 of 15, you
12 should get where I was trying to go.

13 A. Okay.

14 Q. And do you see there on the top half of
15 the page it looks like there is some entries under
16 Reviewer and it has you and then it has Justin Joseph.

17 Do you see that?

18 A. Um-hum.

19 Q. And who is Mr. Joseph?

20 A. Today he is the general manager of the
21 building. I don't know what he was then. He might
22 have been ops manager. I don't remember.

23 Q. Okay. Well, was he your immediate
24 supervisor at some point in time?

1 A. Yes, I believe so.

2 Q. Okay. And under the comments, Mr. Joseph
3 says:

4 "You know every aspect of the C-II
5 department and are a valuable resource for people
6 throughout the company."

7 Do you see that?

8 A. Yes.

9 Q. Do you agree with the comments by-- by
10 Mr. Joseph that -- that you knew every aspect of the
11 C-II department?

12 A. I knew what I was responsible for within
13 our realm of C-II. I can't say I knew every aspect of
14 C-II department in every building. I knew in my
15 building.

16 Q. Okay. If you go down to the bottom of the
17 page, do you see there are some more comments by
18 Mr. Joseph?

19 A. Uh-huh.

20 Q. He says there, he says:

21 "Thank you for everything to do with C-II.
22 You hold yourself and your team to high standards and
23 ensure everyone is being treated fairly. Your
24 understanding of the C-II rules and regulations are

1 second to none."

2 Do you see that?

3 A. Um-hum, um-hum.

4 Q. And that was the input of your manager as
5 it relates to your knowledge and understanding of the
6 rules related to Schedule II drugs, correct?

7 A. Correct.

8 Q. And that's consistent with -- with what
9 you told us that when it came to Schedule II drugs you
10 were the -- the subject matter expert for lack of a
11 better word on that topic within the Perrysburg
12 distribution center?

13 MS. SWIFT: Object. Object to the form.

14 BY THE WITNESS:

15 A. Correct.

16 BY MR. GADDY:

17 Q. While you were the C-II function manager
18 at Perrysburg, did you have any duties or
19 responsibilities regarding suspicious order
20 monitoring?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. The SAIL coordinator, we did get a
24 suspicious order monitoring -- or a suspicious order

1 report from corporate which the -- went to the SAIL
2 coordinator. That was part of her responsibility to
3 file it. I -- yeah, I didn't do anything with it.

4 BY MR. GADDY:

5 Q. Okay. There was a C-II SAIL coordinator?

6 A. Um-hum.

7 Q. Okay. I had the opportunity to talk with
8 Jen Diebert who I understand was the C-III through V
9 coordinator for some period of time.

10 A. Uh-huh.

11 Q. Would it be fair to say that -- that
12 Ms. Diebert, what she did with III through Vs did not
13 overlap with what you did with C-IIs?

14 A. It did not, no.

15 Q. Okay. So who were -- who was the C-II
16 coordinator? Or excuse me.

17 A. The SAIL coordinator?

18 Q. Yes. Thank you.

19 A. It was Brook Best. Brook Best who is now
20 married and I don't know her last name now, but...

21 Q. Okay. Is she the only C-II SAIL
22 coordinator that worked with you during your time as a
23 function manager?

24 A. No. We also had Lori Fenimore for a short

1 time.

2 Q. And who else?

3 A. Those are the only two I remember. Oh,
4 no. There was a Chad, and I don't remember his last
5 name either.

6 Q. Did these people serve concurrently at the
7 same time or only one at a time?

8 A. One at a time.

9 Q. Okay.

10 Okay. So you said that the C-II SAIL
11 coordinator would receive a suspicious order report?

12 A. I believe so.

13 Q. Okay. Who would they receive that report
14 from?

15 A. I don't know specifically the person. I
16 just know that we got it in -- in the mail, in the
17 interoffice mail. I don't know who it came from.

18 Q. Okay. Do you know what department it came
19 from?

20 A. No.

21 Q. Okay. What -- what was done with it after
22 it was received?

23 MS. SWIFT: Objection; foundation.

24 BY THE WITNESS:

1 A. What was done, it was given to the SAIL
2 coordinator. What she did with it, I really don't
3 recall.

4 BY MR. GADDY:

5 Q. Okay. What was she supposed to do with
6 it?

7 MS. SWIFT: Objection; foundation.

8 BY THE WITNESS:

9 A. I don't recall. I -- you know, there was
10 so much that she was responsible for that I -- there
11 is -- I learned her job from day one, but then after
12 we grew and grew and I got more involved in the floor
13 and the physical handling of the freight that I just
14 trusted her to do what she knew what she had to do, I
15 mean.

16 BY MR. GADDY:

17 Q. Okay. Well, she reported to you, correct?

18 A. Um-hum, yeah.

19 Q. Okay. And did she do any -- did she even
20 look at the suspicious order report?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. I couldn't answer that.

24 BY MR. GADDY:

1 Q. Do you know whether or not she ever even
2 looked at the suspicious order report?

3 MS. SWIFT: Objection; foundation.

4 BY THE WITNESS:

5 A. I couldn't answer that. I don't know.

6 MS. SWIFT: Let me get my objection out --

7 THE WITNESS: Oh, I'm sorry.

8 MS. SWIFT: -- before you start talking about.

9 MR. GADDY: Sure.

10 BY MR. GADDY:

11 Q. So, we were all talking over each other.

12 Do you know whether or not your C-II SAIL
13 coordinator ever even looked at the suspicious order
14 report?

15 MS. SWIFT: Objection; foundation.

16 BY THE WITNESS:

17 A. I don't know.

18 BY MR. GADDY:

19 Q. Do you know whether or not your C-II SAIL
20 coordinator ever did any evaluation or analysis of the
21 suspicious order report that they received?

22 MS. SWIFT: Objection; foundation.

23 BY THE WITNESS:

24 A. I don't know.

1 BY MR. GADDY:

2 Q. This report was received monthly?

3 A. I don't --

4 MS. SWIFT: Objection; foundation.

5 BY THE WITNESS:

6 A. I don't know.

7 BY MR. GADDY:

8 Q. Okay. Do you have any recollection of any
9 time during the distribution timeframe of any C-II
10 SAIL coordinator ever providing you any information
11 about that suspicious order report?

12 MS. SWIFT: Objection; vague as to time.

13 BY THE WITNESS:

14 A. No.

15 BY MR. GADDY:

16 Q. During the entire time that you were the
17 C-II function manager at -- at Perrysburg, did you
18 ever look at the suspicious order report?

19 MS. SWIFT: Objection; foundation.

20 BY THE WITNESS:

21 A. Not that I recall.

22 BY MR. GADDY:

23 Q. I'm sorry?

24 A. Not that I recall.

1 Q. Okay. During the entire time that you
2 were the C-II function manager at Perrysburg, did you
3 ever ask anyone to look at the con -- the suspicious
4 order report?

5 A. I expected the C-II coordinator did
6 whatever she was trained to do with it when she was at
7 Woodland and Jupiter. So it -- I can't say that I
8 asked.

9 What was your question again, did I ask
10 anyone?

11 Q. Did you ever ask anyone to look at it,
12 evaluate it, analyze it, anything like that?

13 A. I did not ask someone to do that.

14 Q. Did you ever ask for updates from your
15 C-II SAIL coordinator about what was going on with
16 those suspicious order reports that were coming in?

17 A. No.

18 Q. How is it that you know that suspicious
19 order reports were coming in to the distribution
20 center?

21 A. I remember seeing a printed copy of
22 something that said suspicious drug report, but I
23 don't -- again, it went to the SAIL coordinator and
24 she did with it whatever she was trained to do with it

1 at Woodland and Jupiter. Either it was filed or, you
2 know, I don't...

3 Q. Do you know that she did with it what she
4 was trained to do?

5 A. I don't -- I didn't see it done, if that's
6 your question, so.

7 Q. Well --

8 A. I trusted that she did what she was
9 trained to do.

10 Q. But you don't know if she did it or not?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I --

14 MS. SWIFT: Asked and answered.

15 BY THE WITNESS:

16 A. I can't say that I know what she did with
17 it, but I'm sure she filed it would be my guess.

18 BY MR. GADDY:

19 Q. When you say "filed it," what do you mean
20 by that?

21 A. I mean, I don't think she threw it in the
22 trash. I think she kept it as a -- you know, as a
23 record. I don't know how long or what she did with
24 it.

1 Q. Okay. Well, where would it be kept?

2 A. In one of her file drawers, I would guess.

3 I don't know.

4 Q. Okay. Is there any file depository within
5 the distribution center where -- where records such as
6 that are kept?

7 A. We have boxes of records from when the
8 vault was opened, yes.

9 Q. Okay. What does -- I think you said that
10 you saw reports that said what suspicious drug
11 order --

12 A. Something, yeah, I saw a report that said
13 that at the top. I don't -- but I didn't handle it or
14 do anything with it.

15 Q. Okay.

16 A. It went to her.

17 Q. What's your understanding of the
18 information that would have been contained in that
19 report?

20 MS. SWIFT: Objection; foundation.

21 BY THE WITNESS:

22 A. Well, by the title alone, I would guess
23 that the information in that report were orders that
24 we were questioning if they were valid, maybe.

1 BY MR. GADDY:

2 Q. Okay.

3 Was somebody at the distribution center in
4 charge of following up on those orders?

5 A. Well, I followed up on any orders that
6 came through that were above what I knew to be
7 reasonable for a store or any store just by the
8 physical handling of it. We would never pick -- like
9 we would get orders occasionally for a hundred of
10 something and we never did those. We just called the
11 store and said, Did you really want a hundred? And
12 they'd go, Oh, no. I wanted a hundred pills. I would
13 need one bottle of a hundred, you know, we would do
14 that, but we never filled those orders.

15 Q. Sure. And -- and that deals with, you
16 know, excessive queries, excessive order queries and
17 things like that, correct?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. I did not hear the -- that excessive order
21 query is something I did not do in our department. I
22 believe the computer room did that, but I did not do
23 that.

24 BY MR. GADDY:

1 Q. Okay. Well, what you just referenced as
2 far as looking for -- for unusually --

3 A. Quantities.

4 Q. -- the -- where people are wanting numbers
5 of pills instead of bottles, we'll talk about that in
6 a minute, but I want to make sure we kind of tie up
7 this whole suspicious order report --

8 A. Okay.

9 Q. -- that you said you saw from time to
10 time.

11 You never looked at it, I think we've
12 established that, correct?

13 A. Correct.

14 MS. SWIFT: Objection to the form,
15 mischaracterizes the testimony.

16 BY MR. GADDY:

17 Q. Okay. Was anybody in -- was anybody in
18 the distribution center -- do you know whether or not
19 anybody in the distribution center was reviewing that
20 report?

21 MS. SWIFT: Objection; asked and answered.

22 BY THE WITNESS:

23 A. The SAIL coordinator, it was part of her
24 job, so I would have to assume she was doing it, but

1 did I stand over her shoulder all day, no. I -- she
2 was -- that was part of her job, so I did not do it.

3 BY MR. GADDY:

4 Q. Okay.

5 So, I had asked you earlier what was your
6 understanding of the information that was contained in
7 that report, and you had said that you thought it
8 might be orders in which you all were questioning the
9 validity of the orders.

10 A. Um-hum.

11 Q. Do you recall that generally?

12 A. Um-hum.

13 Q. Okay. Who in the distribution center was
14 charged with orders in that report, following up on
15 those?

16 MS. SWIFT: Object to the form, asked and
17 answered.

18 BY THE WITNESS:

19 A. Well, my understanding was we had people
20 at corporate that were doing that, we had people in
21 the computer room that were doing that. I thought the
22 report was just a report that we filed because they
23 were taking care of that. I did not look -- do that.

24 BY MR. GADDY:

1 Q. Okay. But you were the C-II function
2 manager, correct?

3 A. Right. That's right.

4 Q. Okay. Did you know who was looking into
5 these orders that you all assumed were invalid orders?

6 MS. SWIFT: Objection; asked and answered.

7 BY THE WITNESS:

8 A. Again, all I knew is that the computer
9 room was running queries and the corporate office had
10 some program that was supposed to be, you know,
11 keeping orders that were unusual from coming through
12 to us, so.

13 BY MR. GADDY:

14 Q. Okay. Was there a -- did you maintain
15 anywhere within the distribution center a list of
16 these stores that were placing these potential invalid
17 orders?

18 MS. SWIFT: Objection; vague.

19 BY THE WITNESS:

20 A. No, not that I recall.

21 BY MR. GADDY:

22 Q. Do you ever recall your C -- your C-II
23 SAIL coordinator coming to you and saying, you know,
24 Ms. Bish, we have, you know, stores X, Y and Z who

1 keep showing up on the suspicious order report. Maybe
2 we need to -- to flag any orders that come from those
3 stores because I keep seeing them in the suspicious
4 order report?

5 Do you recall that happening?

6 A. No.

7 Q. Do you recall anybody in the computer room
8 ever coming to you and making similar comments about,
9 Hey, we've gotten this suspicious order report in and
10 we've looked at it and we need to be -- be wary of
11 stores A, B and C because they keep submitting
12 these -- these orders that -- that are popping on the
13 suspicious order report?

14 Do you ever recall that happening?

15 A. Yes.

16 Q. Okay.

17 A. The computer room called me. Apparently
18 there is a query they were running on checking
19 quantities, anything over a certain quantity, and --

20 Q. Well, I'm asking about the suspicious
21 order report.

22 MS. SWIFT: Let her finish her answer.

23 THE WITNESS: Oh.

24 MS. SWIFT: Finish your answer.

1 THE WITNESS: Oh, okay.

2 BY THE WITNESS:

3 A. Well, I think they are kind of the same
4 thing. Did they get the information from that report?
5 I don't know where they got their information. It
6 could have come off a computer screen, it could have
7 come off of a report. I don't know. But if they had
8 a query that showed them that there was too much
9 ordered, they would call the pharmacy manager. And if
10 they couldn't get ahold of him, they would call me at
11 home and I would just tell them put it on my desk
12 until I looked at it in the morning, called the
13 pharmacy manager. But whether -- where that
14 information came from, was it a printed report, was it
15 a disk, was it a -- I don't know.

16 BY MR. GADDY:

17 Q. Okay. And the purpose of that was to make
18 sure that somebody hadn't entered the number of pills
19 they wanted instead of the number of bottles?

20 MS. SWIFT: Object to form.

21 BY THE WITNESS:

22 A. Well, the purpose of that was to make sure
23 that what they wanted -- what they ordered was what
24 they intended to order and to make sure they really

1 needed it.

2 BY MR. GADDY:

3 Q. You were -- you were making sure they
4 hadn't entered an order by mistake?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. Well, not only that, but, yeah, that was
8 the case sometimes. Some -- sometimes they would
9 enter 11 instead of 1 or whatever. But, yeah, and
10 sometimes they actually needed a larger than normal
11 quantity, and I would ask them why and they would tell
12 me why. And, you know, sometimes I would call Barb
13 Martin who was our pharmacy inventory person who had
14 all of the -- you know, the history of their sales,
15 and say, Does this sound right to you? And she would
16 say, Yeah, and then I would go ahead and dispense it.
17 There was only one time that I recall ever calling a
18 store that they said, Yeah, I really do want that, and
19 then they told me why, so.

20 Q. Okay. Let me go back to where I started
21 with this.

22 As far as that suspicious order report,
23 are you aware of anybody, whether it's the SAIL
24 coordinator, the computer room, corporate, anybody

1 ever contacting you after reviewing the suspicious
2 order report and giving you any updates or information
3 at all?

4 MS. SWIFT: Objection; asked and answered.

5 BY THE WITNESS:

6 A. No.

7 BY MR. GADDY:

8 Q. What is your understanding of what a
9 suspicious order is?

10 A. An order that would be suspicious because
11 it's quantities that would be above the average
12 quantity ordered or the expected quantity ordered.

13 Q. How do you have that understanding?

14 A. Just by knowing what suspicious means, I
15 mean.

16 Q. Just the common definition of the term
17 "suspicious"?

18 A. Yeah.

19 Q. Do you recall ever being provided any
20 training or education by -- by Walgreens or attending
21 any -- any DEA seminars about the -- the obligations
22 related to suspicious order monitoring?

23 A. No.

24 MS. SWIFT: Object to the form.

1 BY MR. GADDY:

2 Q. Have you ever been -- ever attended any
3 DEA presentations in any form or fashion?

4 A. No.

5 Q. Walgreens has never sent you to hear --
6 hear from DEA agents talk about diversion of
7 controlled substances or -- or the duties or
8 obligations under the regulations?

9 A. No.

10 Q. I'll show you what I'll mark as Exhibit
11 No. 5. This is P-GEN 10.

12 (WHEREUPON, a certain document was
13 marked Walgreens - Bish Deposition
14 Exhibit No. 5, for identification, as
15 of 02/01/2019.)

16 BY MR. GADDY:

17 Q. And this is -- if you look at the top of
18 the page, this is a printout from a -- from the DEA
19 website.

20 A. Uh-huh.

21 Q. And this is one particular regulation that
22 I'm just going to ask you if you've seen or if you are
23 familiar with.

24 Do you see about a third of the way down

1 the page, it's a little bit faded, but it says
2 Title 21 Code of Federal Regulations? It is just
3 under the heading at the top. I'm sorry.

4 A. Oh, up here.

5 Q. Under the picture.

6 A. Oh, okay. Yeah.

7 Q. And then below that it says "Part 1301"
8 and below that it says "Security Requirements" and
9 then it has the regulation 1301.74.

10 Do you see that?

11 A. Um-hum.

12 Q. Okay.

13 During the course of your time as the C-II
14 function manager, did you ever have the opportunity to
15 review any of the federal regulations related to the
16 distribution of controlled substances?

17 A. I don't recall.

18 Q. Do you recall anybody at Walgreens
19 corporate or otherwise ever -- ever giving you these
20 regulations or giving you any training on these
21 regulations?

22 A. I don't recall that either.

23 Q. Okay. If you go down to paragraph (b), it
24 starts: "The registrant shall".

1 A. Um-hum.

2 Q. Do you see where I am?

3 A. Um-hum.

4 Q. And it says:

5 "The registrant shall design and operate a
6 system to disclose to the registrant suspicious orders
7 of controlled substances."

8 Do you see that?

9 A. Um-hum.

10 Q. Did you know that that was an obligation
11 that Walgreens had under the federal regulations?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. I thought we did have a computer program
15 that did that. So this -- you know what I mean,
16 before the orders ever dropped, I thought we had a
17 program that ferreted those out.

18 BY MR. GADDY:

19 Q. And you thought that based on seeing the
20 suspicious order report in the distribution center
21 from time to time?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. No.

1 BY MR. GADDY:

2 Q. Okay.

3 A. I thought that because that's what I was
4 told.

5 Q. Okay. Who were you told that by?

6 A. One of the programmers for C-II, Ann
7 Anaya, who I don't think is with the company any
8 longer, but...

9 Q. Okay. Did she work at Perrysburg or
10 somewhere else?

11 A. At corporate.

12 Q. Okay. In what department?

13 A. The -- she was part of the programming
14 department. I don't know what they called it. IT,
15 yeah.

16 Q. And what did she tell you about that
17 program?

18 A. She -- she didn't give me the details.
19 She just said there is a program that -- that will
20 keep -- will bounce out orders that are above what
21 they should be for their history, for their, you know,
22 history at that particular store. So if they normally
23 do a hundred of something and we get an order for 200
24 of something, that's going to throw that out and send

1 it back.

2 Q. Okay. Did -- did she show you the policy
3 or the procedure for how that worked?

4 A. No.

5 Q. Do you know the timeframe in which she
6 told you that was happening?

7 A. No, I have no idea.

8 Q. Did she talk to you at all about how that
9 program changed over time or when that program was
10 initiated?

11 A. No.

12 Q. Okay. The paragraph (b) contin --
13 continues on to say:

14 "The registrant shall inform the Field
15 Division Office of the Administration in his area of
16 suspicious orders when discovered by the registrant."

17 Do you see that?

18 A. Um-hum.

19 Q. Did -- at any time while you were the C-II
20 function manager, did you ever contact the DEA
21 regarding an order of controlled substances that you
22 received?

23 A. No.

24 Q. Would that have been something that ever

1 would have occurred to you to do?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. Probably not because we didn't fill the
5 orders that were odd or large. You know, when I
6 called the store, like I said, there was only one case
7 that I remember that they actually said, Yes, I really
8 want 80 of those or whatever. So, no, there was -- I
9 wouldn't have thought of calling them.

10 BY MR. GADDY:

11 Q. Okay. Well, when you say "orders that
12 were odd or large," I mean, you -- you shipped to -- I
13 think we just saw over 5,000 different stores,
14 correct?

15 A. Um-hum, um-hum.

16 Q. And I'm sorry. You have to say yes or no
17 for her.

18 A. Oh, yes. Sorry.

19 Q. And is it fair to say that -- that those
20 stores are in all different types of markets?

21 A. Right, that's fair to say, yeah.

22 Q. For example, there is a Walgreens in
23 Perrysburg, is -- is there?

24 A. Yes, um-hum.

1 Q. Okay. There is Walgreens in Cleveland,
2 correct?

3 A. Yes.

4 Q. Chicago?

5 A. Yep.

6 Q. So there is Walgreens in -- in big cities,
7 Walgreens in small towns, correct?

8 A. Right, yes.

9 Q. When you were looking at these orders, did
10 you do any evaluation of the population size that --
11 that these stores were serving?

12 A. No.

13 Q. Did you do any evaluation of how far the
14 patients were traveling to get to those stores to have
15 their prescriptions filled?

16 A. No.

17 Q. Did you do any evaluation of the numbers
18 and types of doctors that were writing the
19 prescriptions for these C-II drugs?

20 A. No.

21 Q. Okay.

22 Every time that an order came in, did
23 you -- did you do an historical analysis on that
24 particular store for every single order that you

1 received?

2 A. No.

3 Q. So when you say you didn't fill the orders
4 that were odd, that would mean the orders that jumped
5 off the page as being very large and would require a
6 follow-up phone call to the store to make sure that
7 they didn't make an error when they were typing in
8 their order?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Well, to make sure that they didn't make
12 an error or that they didn't really need it. But,
13 like I said, again, there was only one case where I
14 recall them actually saying, Yes, that's what I need.

15 BY MR. GADDY:

16 Q. Okay. Usually it was, Oh, shoot. I meant
17 3 and I typed 300?

18 A. Usually, yeah.

19 Q. And in those cases you would just delete
20 the 300 and put in a 3?

21 A. Right.

22 Q. It goes on to say in paragraph (b), it
23 says:

24 "Suspicious orders include orders of

1 unusual size, orders deviating substantially from a
2 normal pattern, and orders of unusual frequency."

3 Do you see that?

4 A. Um-hum.

5 Q. Prior to just now, right here today in
6 this deposition, had you ever read that subsection of
7 this regulation before?

8 A. I don't remember. I don't remember if I
9 did or not.

10 Q. Okay. Do you recall anybody at Walgreens
11 ever giving you any training regarding this topic?

12 A. Regarding orders deviating substantially
13 all -- from a normal pattern, that -- no, because,
14 again, that's something that I thought was done at
15 corporate. They have all of the sales history. In
16 the DCs we don't have that.

17 Q. Okay. But you were the C-II function
18 manager at Perrysburg, correct?

19 A. Yep, yep.

20 Q. Okay. And you were the person, I think,
21 that Mr. Joseph said that your knowledge of C-IIs was
22 second to none, correct?

23 A. Um-hum, yes.

24 Q. Okay. Let me show you another policy that

1 would have been in place when you started at the
2 Perrysburg distribution center.

3 I'll mark this as Exhibit No. 6.

4 (WHEREUPON, a certain document was
5 marked Walgreens - Bish Deposition
6 Exhibit No. 6, for identification, as
7 of 02/01/2019.)

8 BY MR. GADDY:

9 Q. Do you see the -- look at the bottom of
10 the page. Do you see the -- the web address for kind
11 of the -- the Walgreens Intranet?

12 A. This one down here?

13 Q. Yes, ma'am.

14 A. Yeah, um-hum, yes.

15 Q. Okay. And then it -- the top of the
16 page it's the -- one of the policies that was housed
17 there, "Handling Suspicious Drug Orders."

18 Do you see that?

19 A. Yes, yes.

20 Q. And if you look at just below the
21 paragraphs, it has the original date of the policy of
22 September of '98.

23 Do you see that?

24 A. Yes.

1 Q. And then the revised date of February 15,
2 2005?

3 A. Right.

4 Q. Okay. And it says -- for the policy, it
5 says:

6 "The Logistics and Planning Department
7 sends the suspicious control drug order reports" --
8 excuse me -- "suspicious control drug orders report to
9 all distribution centers."

10 Do you see that?

11 A. Um-hum.

12 Q. And that's consistent with what you said
13 that they would come in and -- and I think that the
14 SAIL coordinator was in charge of that, right?

15 A. Yes.

16 Q. It says:

17 "The report lists controlled drug orders
18 that may be of unusual size for a store in its
19 category, of unusual frequency for a store in its
20 category, or deviating from a normal pattern for a
21 store in its category."

22 Do you see that?

23 A. Yep.

24 Q. It then goes on to say:

1 "The distribution center must file all
2 records for five years."

3 Do you see that?

4 A. Yes.

5 Q. Okay. The policy, you would agree with
6 me, doesn't say that anything should be done with
7 those reports other than file them?

8 A. That's the only action I see, yes.

9 Q. Okay. And you are not aware of anybody at
10 the distribution center doing any other action other
11 than just filing them, is that fair?

12 A. With this report, yes, if that's what you
13 are referring to.

14 Q. Okay.

15 Let me ask you some questions now about
16 the process that you've told us a little bit about as
17 far as spot-checking of -- of some of the orders that
18 came in.

19 I'll show you what I'll mark as Exhibit
20 No. 7.

21 (WHEREUPON, a certain document was
22 marked Walgreens - Bish Deposition
23 Exhibit No. 7, for identification, as
24 of 02/01/2019.)

1 BY MR. GADDY:

2 Q. Do you see the Walgreens policy -- the
3 Walgreens logo at the top of this document?

4 A. Um-hum, yes.

5 Q. And the subject here is: "Rx Questionable
6 Order Quantity."

7 Do you see that?

8 A. Yes.

9 Q. And the original date of this policy is
10 12/11/2006.

11 Do you see that?

12 A. Yes.

13 Q. And it looks like this is the original
14 policy as there is no revision date.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And this policy was written by
18 Shelley Crisel?

19 A. That's what it says.

20 Q. Do you know who that is?

21 A. No.

22 Q. Okay.

23 A. Someone at Mt. Vernon, I would assume. It
24 was written at Mt. Vernon.

1 Q. Okay. That's another distribution center?

2 A. Yes, um-hum.

3 Q. And it says the Purpose of this policy is:

4 "To establish procedures for verifying
5 questionable store order quantities on Rx items."

6 Do you see that?

7 A. Yes.

8 Q. And it says under the Scope:

9 "This procedure covers the steps in
10 verifying questionable store order quantities prior to
11 order processing on Rx items."

12 Do you see that?

13 A. Yes.

14 Q. And that's what you told us a little bit
15 about that you would look for -- for orders that would
16 maybe -- maybe jump off the page as far as their size
17 and you would want to do some follow-up on those,
18 correct?

19 A. Yes.

20 Q. Okay. Under Procedure under Section A, it
21 says:

22 "The responsibilities of the computer room
23 personnel and SAIL team," it says, "Prior to Order
24 Processing."

1 And in the first under No. 1 there, it
2 says:

3 "Once the transmissions have been received
4 from the stores to its fullest, you run a query for
5 the" -- "for the cycle date and then it says: "Any Rx
6 order greater than 24 SKUs."

7 Do you see that?

8 A. Um-hum.

9 Q. SKUs means a unit?

10 A. Pieces, um-hum.

11 Q. Okay. So one bottle of pills would be one
12 SKU?

13 A. Yes.

14 Q. Okay. It says:

15 "Any Rx order greater than 24 SKUs," or
16 24 units, "of one item should print on a query in
17 store numerical order along with SS items."

18 Do you see that?

19 A. Um-hum, yes.

20 Q. What's SS items?

21 A. Self serve.

22 Q. Okay. And that would be like which --

23 A. Non-Rx items.

24 MS. SWIFT: Let him finish his question.

1 THE WITNESS: Oh, sorry.

2 BY MR. GADDY:

3 Q. That would be what we'd call like

4 front-of-store items?

5 A. Yes.

6 Q. Like paper towels, toilet paper, that type

7 of stuff?

8 A. Yes.

9 Q. Was 24 the number of -- let me -- let me
10 make sure that we are clear on that.

11 So when -- when we say one SKU, if we are
12 talking about a 100-count bottle of OxyContin, so a
13 bottle with a hundred pills in it, that would be one
14 SKU?

15 A. Yes.

16 Q. Okay. What was the number of SKUs or
17 units that it would require to flag for you to do any
18 type of follow-up phone call to the pharmacy?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. There wasn't really a number. It would
22 be -- generally any number in the triple would be a
23 definite flag, anything over a hundred would be a
24 definite flag, so.

1 BY MR. GADDY:

2 Q. Okay. Is a hundred the number or was
3 there not a number or --

4 A. There was not a number in particular. It
5 was any number -- any order that looked funny or
6 didn't look right. There was no number that I used.
7 The computer room did, apparently, but I didn't.

8 Q. Okay. Now, when -- who would you get this
9 report from?

10 A. What report?

11 MS. SWIFT: Objection to form.

12 THE WITNESS: Sorry.

13 BY MR. GADDY:

14 Q. This report that would show you the
15 quantities of -- of orders for you to look out and see
16 if anything jumped off the page at you?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. There was no report that I got that
20 would -- that was just from the pickers is actually
21 who would find that if -- if they got an order for a
22 hundred of something, they would go, This isn't right,
23 and they would bring it to me and I would call the
24 store. It wasn't a piece of paper form.

1 BY MR. GADDY:

2 Q. Prior to the orders for C-IIIs going to the
3 pickers for them to start -- and let me back up a
4 little bit, because I used the term "pickers." I
5 think I know what that means, but let me make sure
6 it's clear.

7 Tell me in your words what a picker is?

8 A. A picker is the team member who actually
9 takes the product out of the vault and puts it in a
10 container that's going to go get audited and then
11 boxed and shipped to the store.

12 Q. Okay. And so these are people that are --
13 that are taking the pill bottles off the shelf,
14 putting them in the bag and they end up getting on the
15 truck?

16 A. Right.

17 Q. Okay. Prior to an order going to the
18 picker first for Schedule II drugs, is this -- this
19 review that you've told us about a couple of times
20 where you are looking for numbers that I think your
21 words were don't look right, triple digit orders,
22 anything that jumps off the page at you, is that
23 review done before the orders go to the pickers?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Okay. First of all, I didn't -- I don't
3 believe I said I reviewed something. I said if an
4 order popped out, and that's how I knew it popped out
5 because the pickers would come to me and say, This is
6 way too much, something is wrong with this, so I would
7 call the store. It wasn't like a printed report that
8 I looked at, if that's what you thought.

9 BY MR. GADDY:

10 Q. No. And your -- I did. I made an
11 assumption, so that's my fault.

12 So this process that you've told us about
13 where you're looking for -- for large numbers or
14 numbers that pop out, that was not something -- that
15 was done after orders went to the pickers?

16 A. Yes, for us, yes.

17 Q. Okay. And the only way for anything, any
18 of these questionable orders to be brought to your
19 attention would be if a picker brought it to your
20 attention?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Anything that stuck out would have been
24 brought to me by the picker, yes.

1 BY MR. GADDY:

2 Q. Okay. So if the picker doesn't bring it
3 to your attention, there is not a process in which you
4 find it organically on your own?

5 A. No, that's the pros --

6 MS. SWIFT: Object to form.

7 THE WITNESS: Oh, sorry.

8 BY THE WITNESS:

9 A. That's the process the computer room does.
10 That query they run is run before the orders get to me
11 to pick. So, whatever quantity they were using for
12 C-II, they would run their quant -- whatever this
13 query is which I didn't know really existed, but...

14 BY MR. GADDY:

15 Q. Okay.

16 A. It's not what I did. It is what the
17 computer room did prior to the orders coming to me.

18 Q. Okay. Do you know whether or not the
19 computer room in Perrysburg did this?

20 A. I believe -- yeah, I know they did because
21 he used to contact me. If he found things on this
22 report that were high, he would contact me and say
23 either, I called the supervisor and here is what we
24 did, or I called the store manager wasn't -- the

1 pharmacy manager wasn't there, so that's when he asked
2 me what to do, and I would always tell him just leave
3 it on my desk and I would call him in the morning.

4 Q. Okay. So, let me say back to you what I
5 think you've said and you tell me if I get it right or
6 not.

7 A. Okay.

8 Q. You would get notifications from the
9 computer room about orders that were questionable to
10 them and you would get notifications on occasion from
11 the pickers about orders that were questionable to
12 them?

13 A. Correct.

14 Q. Okay. And your job at that point in time
15 would be to contact the store and determine if they
16 actually meant to order what they ordered and, if so,
17 whether or not they really needed it?

18 A. Correct.

19 Q. Okay.

20 Okay. All right. Let's keep reading
21 through the -- and -- and I think what you told me is
22 you don't know what number the computer room was using
23 for this magic number?

24 A. Correct.

1 Q. Okay. You -- okay.

2 If you look at the -- under No. 2, it
3 says:

4 "The CR/SAIL personnel working the query
5 will review the listing. If there is a questionable
6 quantity, the pharmacy is contacted at that store and
7 the order is questioned. If the order is incorrect,
8 the original order for the item is deleted and rekeyed
9 correctly."

10 Did I read that right?

11 A. Yes.

12 Q. And is that consistent with your
13 understanding of how this particular process worked?

14 A. I don't know what the CR is but --

15 Q. I think it is computer room.

16 A. Oh, okay.

17 Q. Would that make sense?

18 A. Yeah, that would make more sense.

19 Yes, that sounds correct.

20 Q. So the purpose of this process is that if
21 you see an order that -- that looks questionable, you
22 call the store and ask them whether or not that order
23 is actually correct?

24 A. Intentional, um-hum.

1 Q. That's the first step, whether or not they
2 intentionally ordered that enough -- that amount,
3 correct?

4 A. Correct.

5 Q. Okay. And according to this policy, if
6 the order is incorrect, then you delete it and put in
7 the correct order?

8 A. Well, I would edit it. I would call it
9 editing it, but not delete it and reorder it. I would
10 just edit it, yeah.

11 Q. Sure.

12 So in the example that I think you gave
13 earlier, if somebody had typed in 100 and you called
14 them and they said, Yeah, we want 100 pills, you would
15 say, Well, gee, you really only need one?

16 A. Right.

17 Q. That's the type of -- of errors or
18 confusion issues that this policy is geared to -- to
19 catch?

20 MS. SWIFT: Object to form.

21 BY THE WITNESS:

22 A. I -- I don't know if that's what it's
23 geared to catch. I didn't write it, but... So, I
24 mean, it says that. It makes sense.

1 BY MR. GADDY:

2 Q. Okay. It goes on to say in No. 3, it
3 says:

4 "Once all orders have been reviewed for
5 accuracy, computer room personnel is notified to
6 kickoff order processing."

7 Do you see that?

8 A. Yes.

9 Q. Okay. It doesn't say anything in here
10 about -- and I think you've already told me that you
11 didn't do this, but it doesn't say anything in here
12 about the distribution center doing any type of
13 analysis or evaluation of past ordering practices or
14 ge- -- population densities or number of doctors or
15 any of those types of things, correct?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. It doesn't say that, correct.

19 BY MR. GADDY:

20 Q. Well, and you didn't do those types of
21 things, correct?

22 MS. SWIFT: Objection; mischaracterizes the
23 testimony.

24 BY THE WITNESS:

1 A. I did not do that.

2 BY MR. GADDY:

3 Q. Okay. You weren't trying to determine by
4 looking at data points whether or not a particular
5 order was -- was justified or not, you were trying to
6 determine whether or not they really meant to order
7 that number?

8 A. Or --

9 MS. SWIFT: Objection; mischaracterizes the
10 testimony.

11 BY THE WITNESS:

12 A. Or really needed it. It could be either
13 one.

14 BY MR. GADDY:

15 Q. And if they really needed it and the order
16 they entered was correct and you had the inventory,
17 you would fill the order?

18 A. I may call Barb Martin first who was
19 the -- she was the one who had the sales history for
20 the store, and if it really seemed unusual, I would
21 call her and say, Does that sound right to you? And
22 she would look at their past history, and it was
23 really up to her, I mean.

24 Q. Okay. Did you tell me earlier that you

1 recall that happening one time?

2 A. Um-hum.

3 Q. Okay.

4 A. Because that was the only time I remember
5 a store saying, Yes, I do want that.

6 Q. Okay. And so there was only one time
7 while you were a C-II function manager that you called
8 to check for one of these potential fat finger errors
9 or mist -- entry errors and -- and you called the
10 store and they said, Yes, we actually do need that
11 large amount?

12 A. That I can remember, yeah.

13 Q. Okay. And do you think you called Barb
14 that particular time?

15 A. I think I probably did.

16 Q. Okay. And did she approve the order to be
17 filled or did she tell you to do something different?

18 A. Well, I -- I think she had told -- I think
19 I filled the order, so she must have told me to fill
20 it. I don't remember her actually saying that, but it
21 was too long ago, but I'm sure she told me to.

22 Q. Okay. So it would be accurate to say that
23 the entire time you were the C-II function manager at
24 Perrysburg working with this questionable order

1 quantity process, there was one time in which you
2 called to check and see whether or not it was an error
3 or real order, they said, No, it's a real order. We
4 really want that amount. You believe you elevated it
5 to Barb and Barb cleared it to be delivered?

6 MS. SWIFT: Objection; mischaracterizes the
7 testimony.

8 BY MR. GADDY:

9 Q. Is that correct?

10 A. That sounds correct, yeah.

11 Q. If you look at Paragraph B, it says:

12 "Responsibilities of the Rx team member
13 personnel," and if you keep reading, it says -- it
14 talks about the -- the picking process.

15 Do you see that?

16 A. Yes.

17 Q. And then it says:

18 "1. As Rx team members are picking
19 orders, if an order seems questionable, SAIL office
20 will be contacted via phone for order accuracy
21 verification."

22 Do you see that?

23 A. Um-hum.

24 Q. And that's the second -- the pick, I think

1 you already told us that, the pickers were the second
2 group of people that you would have received a
3 notification from if they saw something they thought
4 was questionable?

5 A. Correct, um-hum.

6 Q. Okay. And -- but, again, your same answer
7 that -- that you just gave as far as there only being
8 one time where you followed up with a store, asked
9 them about this, this order, and they said, No, we
10 really do need that large amount, you contacted Barb
11 and she cleared the order, that same -- that applies
12 to -- to any notifications from the pickers too,
13 correct?

14 MS. SWIFT: Objection to the form.

15 BY THE WITNESS:

16 A. That is from notifications from the
17 pickers. That is where that came from.

18 BY MR. GADDY:

19 Q. Okay.

20 A. Yeah.

21 Q. Okay. So you're not -- you're not making
22 a distinction between any notifications you would have
23 received from Matt and the folks in the computer room
24 and the pickers?

1 MS. SWIFT: Objection to the form.

2 BY MR. GADDY:

3 Q. Correct?

4 A. Correct.

5 Q. Okay. And, again, it goes on to say -- in
6 No. 2 it says:

7 "The SAIL team member contacts the
8 pharmacy personnel at the store for order
9 verification. If order is incorrect, a replenishment
10 markdown is done."

11 So, again, same as the -- the previous
12 con -- concept, contact the store to find out if they
13 really meant to order what their order indicates,
14 correct?

15 A. Correct.

16 Q. You agree there is nothing in this
17 particular policy that talks about suspicious orders
18 whatsoever?

19 A. Well, it's talking about questionable
20 store order quantities, so.

21 Q. So bad question. Bad question on my part.
22 The term "suspicious order" is not used in
23 this policy?

24 A. No, it's not.

1 Q. I'll show you what I'll mark as Exhibit
2 No. 8.

3 (WHEREUPON, a certain document was
4 marked Walgreens - Bish Deposition
5 Exhibit No. 8, for identification, as
6 of 02/01/2019.)

7 BY MR. GADDY:

8 Q. That one time where you had to -- or where
9 you decided to contact Barb Martin and ask her about
10 an order that -- that you thought was -- was unusually
11 large and the order was cleared, you didn't report
12 that to the DEA, correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. No.

16 BY MR. GADDY:

17 Q. Okay. Is that something you would have
18 even considered doing?

19 A. I don't really know what I would consider
20 doing at that time, but I know I didn't.

21 Q. Would you have been aware that there were
22 any policy or procedures or federal regulations in
23 place that would have gothorn -- governed whether or
24 not you should have contacted the DEA about any orders

1 such as that?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. Uhn-uhn, no.

5 BY MR. GADDY:

6 Q. Okay. Had anybody at Walgreens ever told
7 you to report to the DEA any orders that -- that you
8 received in that were of unusual size or quantity?

9 A. No.

10 MS. SWIFT: I'm sorry to interrupt, but I just
11 got a notification that the real-time got cut.

12 Anything we can do to get that back up and running?

13 MR. GADDY: Do you want to take a break? It is
14 about an hour and 20 minutes.

15 MS. SWIFT: It is up to you, totally up to you.

16 MR. GADDY: Well, if we are going to stop for
17 this, then sure.

18 MS. SWIFT: That's fine.

19 THE VIDEOGRAPHER: We are going off the record
20 at 9:22.

21 (WHEREUPON, a recess was had
22 from 9:22 to 9:40 a.m.)

23 THE VIDEOGRAPHER: We are back on the record at
24 9:40.

1 BY MR. GADDY:

2 Q. Ms. Bish, I'm handing you what I've marked
3 as Exhibit No. 8. And if you see on the front page,
4 this is an e-mail between a couple of folks at
5 Walgreens. I'm really going to be asking you about
6 the attachment, but -- but it looks like this was sent
7 to a Tammy Trumbull.

8 Do you see that?

9 A. Uh-huh. Yes.

10 Q. Do you know Tammy?

11 A. Yes.

12 Q. And who -- who is Tammy?

13 A. She is the administrative manager.

14 Q. Of the Perrysburg distribution center?

15 A. Yes.

16 Q. Has she been in that position the entire
17 time that you have been there?

18 A. No.

19 Q. Okay. Who did that before her?

20 A. It was a gentleman. I don't remember his
21 name.

22 Q. Has -- has she been in that position for
23 quite some time?

24 A. Yes.

1 Q. Okay. Let's turn to the attachment.

2 And -- which is the very next page. And
3 if you look at the top of the page, do you see we are
4 looking at, again, a policy -- a Walgreens policy, "Rx
5 Questionable Order Quantity"?

6 A. Yes.

7 Q. And if you look at the -- the right-hand
8 side of that, you see that same date from the last
9 one, the original policy, 12/11/06?

10 A. Um-hum, right.

11 Q. Do you see that?

12 A. Yes.

13 Q. And you looked back at the last one to
14 verify?

15 A. Yes.

16 Q. And do you see that this is actually a
17 revised copy because it looks like it was revised
18 April 8th, 2010?

19 A. Yes.

20 Q. Do you see that?

21 A. Yes.

22 Q. And if you would, it might make -- it
23 might make it quicker if you put the original policy
24 next to this one so that I can only ask you about any

1 of the differences. And --

2 MR. GADDY: Can I have the last one?

3 BY MR. GADDY:

4 Q. And it looks like the -- the purpose is --
5 is identical, correct?

6 A. Yes.

7 Q. And the same thing with the scope, it
8 looks like that is identical, correct?

9 A. Yes.

10 Q. And if you look under III.A, the
11 procedures as far as contacting the pharmacies for
12 these -- these orders that -- that jump off the page
13 in determining whether or not they are accurate, it
14 looks like 1, 2 and 3 there are all identical.

15 Do you see that?

16 MS. SWIFT: Object to the form, mischaracterizes
17 the document.

18 BY THE WITNESS:

19 A. Yes.

20 BY MR. GADDY:

21 Q. And then if you look under B, as far as 1
22 and 2, those -- kind of the second part about how the
23 pickers are also supposed to contact you if they see
24 anything, it looks like that's identical also?

1 A. Yes.

2 Q. Okay. And -- and so it looks like what's
3 added, though, what's new in this 2010 version is
4 Part C, correct?

5 A. Yes.

6 Q. Okay. And so I'll ask you about that
7 in -- in -- in just a second.

8 Let me ask you a couple of other
9 questions --

10 A. Okay.

11 Q. -- first.

12 How often would -- would this process
13 happen? And -- and -- and maybe an easier way to ask
14 that is how often would C-II orders come into the
15 distribution center?

16 A. They came in every day.

17 Q. Okay. And the orders that came in every
18 day, would they be filled that same day?

19 A. Yes.

20 Q. Okay. Were there ever occasions in
21 which -- well, let me ask you this:

22 So -- so this process that we've been
23 talking about where you might have to call a
24 pharmacy --

1 A. Uh-huh.

2 Q. -- that's something that takes how long?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. It depends. If the pharmacy manager is
6 available and answers the phone, it doesn't take very
7 long. If you have to wait for them to call you back,
8 it could take longer.

9 BY MR. GADDY:

10 Q. It -- it is generally the same day?

11 A. Oh, yeah, um-hum.

12 Q. Okay. Are there ever occasions under this
13 policy where you are holding orders for -- for days or
14 weeks at a time before you fill them?

15 A. No.

16 Q. Okay. Are there ever occasions during
17 your time at C-II -- as the C-II function manager
18 where you are ever holding any orders for days or
19 weeks at a time for -- for any reason related to
20 investigating the order?

21 A. Not related to investigating the order.

22 Q. Okay. What would be a reason that you
23 would hold an order for days or weeks at a time?

24 A. Occasionally a new store would open late,

1 so we'd be told we had to hold the order till they
2 were ready to receive it.

3 Q. Okay. Any other reasons that you can
4 think of?

5 A. Not that I can think of.

6 Q. Okay. And when you say "a new store would
7 open late," that would be a situation where a store is
8 supposed to open on January 1st and it turns out they
9 don't open until February 1st and so all of the orders
10 that were ready to go out the door need to sit -- need
11 to sit in the -- the warehouse for an extra month?

12 A. In the vault, um-hum.

13 Q. Okay. And I'm sorry. You've got to say
14 yes or no.

15 A. Yes.

16 Q. Okay. So, as far as this process that
17 we've been talking about a little bit, it sounds like,
18 and tell me if I'm wrong, but it sounds like either
19 the computer room or the pickers, anybody that would
20 have identified these orders that -- that needed a
21 call to the -- a call to the store, that would have
22 gone to you as the C-II function manager?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. Yes.

2 BY MR. GADDY:

3 Q. Okay. Anybody other than you that would
4 have been in charge of handling that issue?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. Well, my lead if I wasn't there. I mean,
8 I had someone that filled in when I was sick or on
9 vacation.

10 BY MR. GADDY:

11 Q. Sure, sure.

12 But if you weren't -- if you were there
13 and you were working like normal course of business --

14 A. Uh-huh.

15 Q. -- the buck stopped with you as far as
16 following up on any of these orders that the computer
17 room or the pickers flagged?

18 MS. SWIFT: Objection to form.

19 BY THE WITNESS:

20 A. I would say yes.

21 BY MR. GADDY:

22 Q. And one of the things that -- that you --
23 that I think you said you did was first that you
24 would -- your first question to the store would be,

1 Did you really mean to order this amount.

2 And it sounds like, and tell me if I'm
3 wrong, but it sounds like every time but one the
4 answer was, Whoops, no, I didn't, reduce the order, is
5 that accurate?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. That's to my recollection. It could be
9 more, but that's all I can remember is one that I
10 actually...

11 BY MR. GADDY:

12 Q. One time where you said, Hey, did you
13 really mean to order this number and every time but
14 one they told you it was a mistake?

15 A. Yes.

16 Q. Okay. And you said from there -- I think
17 you said the other thing that you would do is
18 determine whether or not they really need that amount,
19 correct?

20 A. Right, I would ask them why they needed it
21 and, actually, the case that I recall, and that's
22 probably why I remember it, is she said she had a
23 patient that had 48 hours to live and she needed it
24 for that patient.

1 Q. Okay. What I'm interested in is what
2 information or data you would have had to review --

3 A. Uh-huh.

4 Q. -- to help you answer the question of why
5 do you need it? And it sounds like one piece of
6 information or data would have been what was provided
7 verbally by the store?

8 A. By the pharmacy manager.

9 Q. Okay. Any other information or data that
10 you had at your disposal to consider why a particular
11 store might have needed a high quantity of C-IIs?

12 A. The only other source would have been
13 Barb Martin, who I also would call on occasion.

14 Q. Okay. At --

15 A. At corporate, not at the DC.

16 Q. Correct, correct. She didn't work in the
17 distribution center?

18 A. Uhn-uhn.

19 Q. Okay. And -- okay. And you've told us
20 that you recall calling her about this one particular
21 order --

22 A. Uh-huh.

23 Q. -- and that she -- presumably you passed
24 on the information to her that you had received from

1 the store?

2 A. Right.

3 Q. And she told you to fill the order?

4 A. Right.

5 Q. So would it be fair to say that the only
6 information you had that you had access to was
7 whatever was provided to you by the store, and that to
8 get other information, whether it's historical data
9 or -- or patterns or whatnot, you would have to go
10 through corporate via Barb Martin, is that fair?

11 A. That's fair, yes.

12 Q. Okay. And you think -- and you think you
13 did that on -- on that one occasion?

14 A. Yes.

15 Q. Okay.

16 Okay. So let's look at Paragraph C. I
17 guess it is III.C of this 2010 policy.

18 Are you with me?

19 A. Yes.

20 Q. It says: "Responsibilities of Walgreens
21 company."

22 And No. 1 says: "Suspicious store orders
23 and inquiries are handled through the corporate office
24 internal audit department."

1 Do you see that?

2 A. Yeah, I see that.

3 Q. What is the corporate office internal
4 audit department?

5 A. It's a department where they do internal
6 audits, but I couldn't tell you exactly what they do.

7 Q. Okay.

8 A. I don't know.

9 Q. What do they do internal audits of?

10 MS. SWIFT: Objection; foundation.

11 BY THE WITNESS:

12 A. I couldn't tell you. I don't know.

13 BY MR. GADDY:

14 Q. How -- can you tell me any members of the
15 internal audit department?

16 A. Yarbrough is a familiar name, but I don't
17 really know if he was with internal audit.

18 Q. You said Yarbrough?

19 A. Yeah.

20 Q. But you don't know if he was with internal
21 audit or not?

22 A. Not for sure, uhn-uhn.

23 Q. Okay. Anybody else?

24 A. I don't recall any other names, uh-uh.

1 Q. Okay. Do you ever recall anybody else
2 from internal audit ever coming to the distribution
3 center in Perrysburg?

4 A. If they did, they didn't tell me they were
5 with internal audit. I don't...

6 Q. Do you ever recall being asked to pull any
7 information for internal audit?

8 A. No.

9 Q. Ever being asked to pull any -- any data
10 or reports for the internal -- internal audit
11 committee or internal audit department?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. No.

15 BY MR. GADDY:

16 Q. Do you know how many people make up the
17 internal audit department?

18 A. No.

19 Q. Do you know whether or not the internal
20 audit department has ever issued any reports or
21 findings related to the Perrysburg distribution center
22 and its compliance with DEA regulations?

23 A. No, I don't.

24 Q. Do you ever recall being a part of any

1 meetings or training seminars where results of
2 internal audits of Perrysburg were -- were discussed?

3 A. No, I don't remember any of those.

4 Q. Okay. Did you know that -- that
5 suspicious orders and inquiries were -- were handled
6 through the internal audit department?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No.

10 BY MR. GADDY:

11 Q. Do you ever recall being instructed or
12 requested by anybody with internal audit to -- to edit
13 or halt an order for C-IIs?

14 A. No.

15 Q. Do you ever be -- requested or advised by
16 anybody at Walgreens anywhere to -- to halt or edit a
17 C-II -- a C-II order?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Just the case I already gave you if -- was
21 if a store was going to open late, we were supposed to
22 hold it, yeah.

23 BY MR. GADDY:

24 Q. Okay. It goes on to say:

1 "Suspicious orders are then reported by
2 corporate to the FDA and/or DEA for controlled
3 substances within three days."

4 Do you see that?

5 A. I see that.

6 Q. Do you know whether or not that ever
7 happened?

8 A. No, I don't know.

9 Q. Did you have any visibility into that
10 process whatsoever?

11 A. No.

12 Q. Have you ever had any interaction with
13 anybody at Walgreens regarding suspicious order
14 monitoring?

15 MS. SWIFT: Object to the form, vague.

16 BY THE WITNESS:

17 A. Other than conversations with Ann Anaya
18 where I knew there was a program regarding, you know,
19 suspicious orders, no.

20 BY MR. GADDY:

21 Q. Okay. If you go to the next page, there
22 is actually a Roman numeral IV which is also new to
23 the 2010 version.

24 Do you see that?

1 A. Um-hum.

2 Q. And it talks about training?

3 A. Yes.

4 Q. And it says in No. 1, it says:

5 "The SAIL function manager will be
6 responsible for the training and enforcement of all
7 the procedures."

8 Do you see that?

9 A. Yes.

10 Q. Are -- are you aware of -- of any training
11 ever being provided on this policy to any of the team
12 members at Perrysburg?

13 A. I'm not aware of this written policy being
14 given to anyone, the team members, if that's -- that's
15 what you are asking me.

16 Q. Okay. Do you recall any -- there being
17 any training or guidance given to, whether it's --
18 it's the folks in the computer room or the pickers on
19 what they are supposed to be looking for as far as
20 contacting you about these questionable orders that --
21 that you might need to check for accuracy?

22 A. Well, they just -- they just knew that if
23 it was -- they knew what was high because they picked
24 every day and they picked all stores every week, so

1 they knew if something was unusually high. There
2 wasn't really training given to them to identify that.

3 Q. Did you -- I mean, they're -- you are --
4 this is talking about over 5,000 stores, right?

5 A. Um-hum.

6 Q. Would -- would it be safe to say that you,
7 when you see a store number, do you know what store
8 that is?

9 A. No.

10 Q. Okay. So if you see, I want to say the
11 store numbers were five digits?

12 A. Correct.

13 Q. So -- so if you saw Store 12345, that
14 doesn't -- you don't know that -- that, Oh, we're
15 talk -- that's the store in Perrysburg, Ohio, you
16 don't particularly know where that store is or what
17 population it serves or -- or what its typical
18 business is or anything like that, is that correct?

19 A. That's correct.

20 Q. Okay. So when you say the pickers do this
21 every day and they know what they are seeing, you are
22 not telling me that -- that they know exactly how many
23 bottles Store 12345 typically gets on an average
24 order, are you?

1 A. No, that's not what I'm telling you.

2 Q. Okay. You are just saying as a whole
3 chain wide they're -- they're aware of what comes in?

4 A. They -- they are aware of what was
5 unusually large.

6 Q. On a chain-wide basis?

7 A. On a chain-wide basis, yes.

8 Q. You -- do you see any -- any potential
9 problems or issues with using a chain-wide basis to
10 evaluate size of -- sizes of orders?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Well, I mean, every store would be
14 different based on where it's at. Some were in
15 hospitals, some were in corporate offices, so...

16 BY MR. GADDY:

17 Q. And -- and you would agree with me, it
18 would be fair to say that a -- that a store at a
19 hospital is probably going to need more C-IIs than a
20 store in Perrysburg, Ohio?

21 A. Possibly, that would make sense.

22 Q. And -- and you agree with me that it would
23 be possible that there could be an unusually large
24 number of bottles for Perrysburg, but that might be a

1 normal order of bottles for a hospital, is that fair?

2 A. That would be fair, um-hum.

3 Q. Okay. But you didn't have a daily
4 practice of calling all of the Walgreens stores and
5 hospitals, did you?

6 A. No.

7 Q. Okay. So these or -- these orders that
8 were going to hospitals, those weren't popping on a
9 daily basis for you to follow up on, were they?

10 MS. SWIFT: Objection; foundation.

11 BY THE WITNESS:

12 A. No.

13 BY MR. GADDY:

14 Q. Okay. So what you would see is normal
15 orders for stores in a hospital setting were not high
16 enough to flag for you to do any follow-up calls or
17 investigation on, is that correct?

18 MS. SWIFT: Objection; foundation.

19 BY THE WITNESS:

20 A. That would be correct, because what
21 flagged them was, like, triple -- 300 of something.
22 Not even in a hospital do you need 300 of something.
23 I mean, that's what would flag them right away that
24 something was wrong.

1 BY MR. GADDY:

2 Q. It had to be something crazy for it to
3 flag on this report for you to do a follow-up?

4 A. Well, it had to be something large. I
5 don't know if I would say crazy, but yeah.

6 Q. Outside of being told by Anaya at some
7 point in time for -- that -- that it -- excuse me --
8 being told by Anaya at some point in time that at some
9 other point in time there was some type of system in
10 place --

11 A. Uh-huh.

12 Q. -- did you ever have any interaction with
13 anybody at Walgreens regarding suspicious orders?

14 MS. SWIFT: Object to the form and foundation.

15 BY THE WITNESS:

16 A. Just the computer room supervisor,
17 Matt Nye, the one we talked about earlier.

18 BY MR. GADDY:

19 Q. Okay.

20 And what, if anything, would Matt tell you
21 about -- and -- and -- and I'm not talking about the
22 questionable orders, the -- not -- not about these
23 policies and this procedure here.

24 A. Okay.

1 Q. But I'm asking specifically about the --
2 the suspicious order report that you said would come
3 into the C-II SAIL --

4 A. Uh-huh.

5 Q. -- or -- or the suspicious orders that's
6 handled by internal audit.

7 Did you have -- did you have any
8 conversations with Matt Nye about that suspicious
9 order report or -- or specifically the -- what
10 Walgreens referred to as suspicious orders?

11 MS. SWIFT: Object to the form of the question.

12 BY THE WITNESS:

13 A. Suspicious orders would be the query he
14 ran, I -- that's how I understood it, and then I -- he
15 would talk to me about those. If he couldn't get
16 ahold of the store, he would tell me.

17 Is that what -- the query you are talking
18 about? No.

19 BY MR. GADDY:

20 Q. What you are talking about is what we've
21 been talking about for the last hour or so?

22 A. Um-hum.

23 Q. Okay. So no. I'm talking about something
24 different than that.

1 A. Okay.

2 Q. I'm talking about what -- well, let me ask
3 you this: Did Matt refer to those as suspicious
4 orders?

5 A. I don't recall --

6 Q. Okay.

7 A. -- his verbiage, no.

8 Q. I'm ask -- what I'm trying to ask about,
9 and -- and -- and I'm just going to be sus -- specific
10 to the phrase "suspicious orders."

11 A. Okay.

12 Q. Because that's what's used here in this
13 policy as it relates to internal audit and that's what
14 I think you told me was on that report that the
15 C-II -- that -- that Lori --

16 A. Right.

17 Q. -- who was the C-II SAIL coordinator,
18 would get, correct?

19 A. Correct.

20 Q. Or -- or -- or Brook was the other one,
21 right?

22 A. Um-hum.

23 Q. Did you ever have any conversations or
24 interactions with anybody at Walgreens, other than

1 this Anaya conversation you told us about, regarding
2 suspicious order reports or suspicious orders, and --
3 and I'm confining it to that -- to that specific term?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. Not that I recall.

7 BY MR. GADDY:

8 Q. Okay. Do you know -- do you know a Mark
9 Betteridge?

10 A. Yes.

11 Q. Who is Mark and what did he do?

12 A. He is another function manager at the DC.

13 Q. Okay. What is his purview -- what's under
14 his purview?

15 A. Right now he is in NAKL mod, one of our
16 pick mods.

17 Q. Okay. Has he ever had any
18 responsibilities whatsoever for controlled substances?

19 A. I didn't really follow C-III through V and
20 their activity when I was in receiving as a manager,
21 so I couldn't really answer that. He may have during
22 that frame. I don't know.

23 Q. He never had any responsibilities over
24 C-IIIs?

1 A. No.

2 Q. Okay. What about, do you know a person
3 named James Gill?

4 A. Yes.

5 Q. And how do you know Mr. Gill?

6 A. He is also another manager on night shift.

7 Q. Okay. Has Mr. Gill ever had any
8 responsibilities for C-IIs?

9 A. No.

10 Q. Okay. Do you know whether or not he had
11 any responsibilities over C-III through Vs?

12 A. He may have. I don't really remember. I
13 don't remember.

14 Q. Okay. I'm going to show you what I'll
15 mark as Exhibit No. 9, and this is going to be what I
16 believe is the final version of that same policy.

17 (WHEREUPON, a certain document was
18 marked Walgreens - Bish Deposition
19 Exhibit No. 9, for identification, as
20 of 02/01/2019.)

21 BY MR. GADDY:

22 Q. Do you see we are looking at the top of
23 the page another Walgreens document and it looks like
24 the subject has changed now. It now says:

1 "Authentication of Prescription Order Policy"?

2 A. Right.

3 Q. But if you look at the origination date,
4 it is the same, the 12/11/06?

5 A. Yes.

6 Q. And you can look at it, you can scan it if
7 you want, but it looks like Roman numerals I, II and
8 III are identical to the one -- or excuse me -- at
9 least I, II, and III. A and B are going to be
10 identical.

11 A. That's what it looks like.

12 Q. Okay. And it looks like -- and we are
13 going to talk about some of the changes, but first you
14 see up -- up at the top, this is the October 2013
15 policy, or -- or I should say version of policy,
16 correct?

17 A. Correct.

18 Q. Okay. And so this would be after --
19 excuse me -- one of the -- some of the -- one of the
20 first documents we looked at were some of those, I
21 think it was an April 2012 e-mail where they were
22 discussing the DEA concerns in Jupiter.

23 Do you recall that?

24 A. Is it something we talked about earlier

1 today?

2 Q. It was -- you can pull it out and look at
3 it if you want to.

4 A. Okay.

5 Q. I think it's No. 1.

6 A. So No. 1 was about us taking over
7 Jupiter's -- possibly taking over Ju -- Jupiter's
8 orders.

9 Q. Okay. And does it reference the, I think
10 the first sentence says: You probably heard what's
11 going on with the DEA?

12 A. "You know what's happening in Jupiter with
13 the DEA" it says, yes.

14 Q. Okay. And that's an April 2012 e-mail?

15 A. Yes.

16 Are we done with that one?

17 Q. Yes, ma'am. I was just trying to put it
18 in -- in kind of a time context.

19 So this policy you see is October 2013,
20 correct?

21 A. Correct.

22 Q. So this is going to be post-DEA issues in
23 Jupiter, right?

24 A. Yes.

1 Q. Okay.

2 A. It's post the other, yeah.

3 Q. And it says here in Paragraph C, under
4 Responsibilities of Walgreens, and -- and this is --
5 this paragraph -- this -- what's written here is
6 different than what we saw in the last one, right?

7 A. Right.

8 Q. The last one said that suspicious order
9 monitoring was under the purview of the internal audit
10 committee or internal audit department?

11 A. Yes, um-hum.

12 Q. This one says: "The Walgreens strategic
13 inventory management system."

14 And you're familiar with SIMS?

15 A. Yes.

16 Q. And that's your online ordering system?

17 A. Operating system, uh-huh.

18 Q. Okay. It says:

19 "So the Walgreens SIMS will stop what
20 would be considered suspicious controlled drug orders
21 from being released for picking at the DC based on the
22 algorithm that looks at past sales and order
23 frequency."

24 Do you see that?

1 A. Yes.

2 Q. And does that sound familiar to what Anaya
3 told you when you asked her about that?

4 A. Yes.

5 Q. Okay. And that would be what we see in
6 this October of 2013 policy, correct?

7 A. Correct.

8 Q. Okay. So, let me ask you this: Were you
9 aware that orders were being either cut or -- or
10 blocked from coming into the distribution center for
11 C-IIIs?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. Do you mean prior to '13 or after? When?
15 At any time?

16 BY MR. GADDY:

17 Q. At any time.

18 A. Well, the program would have, this program
19 that we just read about, my understanding was that
20 would not allow orders to come in that were above what
21 was reasonable for their location and history and
22 whatever.

23 Q. Okay. And you had that understanding at
24 the time or you have that understanding from looking

1 at this document?

2 A. Oh, I had that understanding at the time.

3 Q. Okay. How, if at all, did that impact
4 what you did in the distribution center?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. In regards to what, how we handled large
8 orders or how...?

9 BY MR. GADDY:

10 Q. To any part, any portion of your job?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. So how did that change our -- it -- it
14 didn't change anything we did. We still called stores
15 if we got something that was too high.

16 BY MR. GADDY:

17 Q. Okay. I didn't think it did. I just
18 wanted to make sure.

19 A. Yeah.

20 Q. But -- okay. So nothing changed from your
21 perspective once -- once SIMS started reducing or
22 cutting orders?

23 MS. SWIFT: Object to the form.

24 BY MR. GADDY:

1 Q. Correct?

2 A. Not that I noticed.

3 Q. Okay.

4 A. Not that I was aware of.

5 Q. You still -- I'm sorry.

6 A. Not that I was aware of.

7 Q. You still had orders come in every day and
8 you still processed those orders every day?

9 A. Correct.

10 Q. You still ran this, had the computer room
11 and the pickers be looking out for potential orders
12 that were entered in error?

13 A. Correct.

14 Q. You continued to place phone calls to
15 stores if you saw something very large that you
16 thought might be inaccurate?

17 A. Correct.

18 Q. Okay. If you look at the very bottom
19 right-hand corner, do you see there is some Bates
20 numbering down there?

21 A. The WAGMD?

22 Q. Yes, ma'am.

23 A. Uh-huh.

24 Q. If you'd turn for me, please, to the

1 page ending in 394. And at the top of the page you
2 see -- should see something that says: "Mt. Vernon
3 Stores - DC" number and then an "Order Error Process."

4 Are you with me?

5 A. Yep. Yes.

6 Q. And it says in the first paragraph there,
7 it says:

8 "Once it has been confirmed that the
9 adjusted transmissions are across, the sale or the
10 computer room TM will start reviewing stores' Rx
11 transmissions and see if there are any Rx items that
12 have been ordered greater than ■ SKUs of one WIC."

13 Would WIC be an item?

14 A. Right.

15 Q. Okay. So if I was to change the last
16 phrase of that sentence to -- to layman terms, they --
17 what they are saying there is they are looking if any
18 store ordered more than ■ bottles of OxyContin?

19 MS. SWIFT: Object to the form, mischaracterizes
20 the document.

21 BY THE WITNESS:

22 A. Yeah, that's not how I would read it, only
23 because I know that Mt. Vernon didn't handle C-IIIs.

24 BY MR. GADDY:

1 Q. Okay.

2 A. So they --

3 Q. [REDACTED] bottles of Vicodin?

4 A. If that was III through V, yes.

5 Q. Okay. And -- and -- but that's what that
6 means, [REDACTED] would be referring to bottles, the SKUs
7 would be referring to bottles and WIC would be
8 referring to one particular product?

9 A. Right, that's correct.

10 Q. Okay. So that could be [REDACTED] rolls of paper
11 towels, of Bounty paper towels?

12 A. Correct.

13 Q. Okay.

14 MS. SWIFT: Object to the form.

15 BY MR. GADDY:

16 Q. And it goes on to say:

17 "If there is an item that appears to be
18 questionable, a call will be made to the pharmacy of
19 the respective store to review the order and make the
20 change if needed, prior to OP-order processing."

21 Do you see that?

22 A. Yes.

23 Q. Okay. And that's, again, consistent with
24 what you've been telling us over the last little bit

1 here, correct?

2 A. Correct.

3 Q. And if you look down below that, it looks
4 like there has been two examples that have been copy
5 and pasted maybe into this document.

6 Do you see that?

7 A. Yes.

8 Q. And if you look at the first one, it has,
9 on the left-hand side, it has an item number and an
10 item description and then it has, in the second box
11 there, it has, it looks like a store to be shipped to
12 and then it has an order number.

13 Do you see that?

14 A. Yes.

15 Q. And it looks like in this particular one,
16 it looks like somebody entered 30 but when they
17 followed up on it, they really only wanted three,
18 correct?

19 A. Correct.

20 Q. And if you look down at the example below,
21 it looks like there are two -- two examples given
22 there, one where somebody ordered 300 of something but
23 they really only wanted three and another one where
24 they ordered 400 of something but really only wanted

1 four.

2 Do you see that?

3 A. I see that.

4 Q. And are these examples here consistent
5 with the types of issues that you were looking for and
6 identifying when you went through this particular
7 process?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. While I don't understand what process you
11 are referring to, we didn't have a report we looked
12 at, as I stated earlier. It was just the computer
13 room would -- would call us if something looked
14 unusually high and if -- or the picker would tell me
15 if it looked unusually high.

16 BY MR. GADDY:

17 Q. Okay. So you didn't have anything in
18 writing like this?

19 A. No.

20 Q. You just had a verbal notification from
21 the computer room or a verbal notification from the
22 pickers?

23 A. Correct.

24 Q. Okay. But would these be consistent with

1 the type of errors that you would be finding and --
2 and contacting the store to correct?

3 A. Yes. Sometimes they were just fat -- you
4 know, mistakes in entering.

5 Q. Okay. If you'd turn with me, please, to
6 the Bates number ending 383, so it's actually going to
7 be going back towards the front.

8 A. Okay.

9 Q. The top of the page, it says: "Suspicious
10 Order Monitoring Program, Policy and Procedures for
11 the Pharmaceutical Integrity Team."

12 Do you see that?

13 A. Yes.

14 Q. Are you familiar with the pharmaceutical
15 integrity team?

16 A. Yes.

17 Q. In what way?

18 A. That's the team that I think Barb Martin
19 was a part of, or a supervisor of, or in some capacity
20 she was with that group, I believed.

21 Q. Okay.

22 A. That was my understanding of her position.

23 Q. Okay. Do you know of anybody else that
24 was with that group?

1 A. Not off the top of my head, no.

2 Q. How long do you think the pharmaceutical
3 integrity team has been in place?

4 MS. SWIFT: Objection; foundation.

5 BY THE WITNESS:

6 A. I would have no idea. It was some -- they
7 were out of corporate. I don't know how long they
8 were there.

9 BY MR. GADDY:

10 Q. Okay. If you look at the section entitled
11 "Overview," do you see where I am?

12 A. Uh-huh, yes.

13 Q. It says:

14 "Walgreens distribution centers must take
15 reasonable measures to identify its customers,
16 understand the normal and expected transactions
17 conducted by those customers, and identify
18 transactions involving controlled substances that are
19 suspicious in nature."

20 Do you see that?

21 A. Yes.

22 Q. Are you aware of anybody at the Perrysburg
23 distribution center that was doing those things?

24 A. Well, the part that says: "Reasonable

1 measures to identify its customers, understand the
2 normal and expected," again, we had -- did not have
3 the databases to know what was normal for any store to
4 order an item, you know what I mean.

5 Q. So it would --

6 A. So --

7 Q. -- be impossible for anybody to --

8 MS. SWIFT: Did you -- did you finish your
9 answer?

10 BY THE WITNESS:

11 A. Oh. Well, I was also going to say, it
12 says, "Identify transactions involving," this is what
13 the pharmacy integrity -- this -- this is actually
14 what I thought the program was doing, the computer
15 program that was put in place that was supposed to
16 check all of this.

17 BY MR. GADDY:

18 Q. Okay.

19 A. Before it came to us.

20 Q. Your understanding is there was not
21 anybody at the dis -- distribution center doing these
22 things, correct?

23 MS. SWIFT: Object -- object to the form,
24 foundation.

1 BY THE WITNESS:

2 A. Above and beyond what I've already said
3 about them bringing orders to me and the computer room
4 calling me, no.

5 BY MR. GADDY:

6 Q. Okay.

7 And -- and I -- what I think I heard you
8 say is that -- that because you didn't have data it
9 would be impossible for you or anybody at the
10 distribution center to do these things?

11 MS. SWIFT: Object to form.

12 BY THE WITNESS:

13 A. I think what I said was it would be
14 impossible for us to know what was normal and expected
15 for any particular store because we didn't know their
16 order history.

17 BY MR. GADDY:

18 Q. Right.

19 And -- and you are serving over -- over
20 5,000 stores, correct?

21 A. Per week, uh-huh.

22 Q. Okay. And you have orders that come in
23 every day?

24 A. Yes.

1 Q. And you have to process all of those
2 orders every day?

3 A. Yes.

4 Q. Okay. So you can't possibly differentiate
5 between what's normal and expected for each of these
6 5,000 stores because every day you are seeing new
7 stores and new orders?

8 A. The only thing that would stand out are
9 the really large ones, as I've already said, yeah.

10 Q. Sure.

11 It goes on to say that:

12 "The distribution centers mu" -- and I'm
13 going to go to the second half of that first sentence.
14 It starts with:

15 "The Walgreens distribution centers must
16 take reasonable measures," and you just talked a
17 little bit about the normal and expected transactions,
18 but it goes on to say: "identify transactions
19 involving controlled substances that are suspicious in
20 nature."

21 Do you see that?

22 A. Are you right under -- over -- I -- I --

23 Q. I'm still in the --

24 A. -- I was lost from the beginning.

1 Q. No, I'm sorry. I'm still in the -- we
2 just -- we just did a couple of -- of question and
3 answers about the normal and expected --

4 A. Right.

5 Q. -- aspect of that sentence.

6 A. Right.

7 Q. So now what I'm asking about is the third,
8 kind of --

9 A. In the same sentence?

10 Q. Yes, ma'am.

11 A. Okay. Okay.

12 Q. Where it says: "Identify transactions
13 involving controlled substances that are suspicious in
14 nature."

15 Do you see that?

16 A. Yes.

17 Q. And -- and again, that sentence starts
18 with: "The distribution centers must" do this.

19 Do you see that?

20 A. Yes.

21 Q. So --

22 A. It says they "must take reasonable
23 measures."

24 Q. Okay.

1 A. Is that where you are talking? Yeah.

2 Q. Yes, ma'am.

3 Other than what you've already told us
4 about --

5 A. Uh-huh.

6 Q. -- with looking for these orders that
7 might be errors --

8 A. Uh-huh.

9 Q. -- did you in the distribution centers,
10 the C-II function manager, take any steps to identify
11 controlled substances that are suspicious?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. Other than what I've already talked about,
15 no.

16 BY MR. GADDY:

17 Q. If you go down to the last -- it's the
18 second-to-last sentence in the same paragraph, it
19 says, "In making" on the right-hand side of the page.

20 A. Yep, yes.

21 Q. It says:

22 "In making these assessments, the
23 distribution center may consider the pharmacy's
24 clinical business needs."

1 Do you see that?

2 A. Yes.

3 Q. Did you have any information as the C-II
4 function manager about the clinical business needs of
5 any particular store?

6 A. Not unless I called Barb.

7 Q. Okay. And you did that one time?

8 MS. SWIFT: Object to the form, mischaracterizes
9 testimony.

10 BY THE WITNESS:

11 A. No, I did that one time on an order that
12 the store said they really did want, that's, you know,
13 that's what you are referring to.

14 I would call her several times just
15 questioning things if I thought something looked funny
16 or an order was particularly large or whatever and
17 then she would share with me either it's in hospital
18 or, you know, whatever, whatever the reason would be.

19 BY MR. GADDY:

20 Q. Okay. Did you have any way independent of
21 calling Barb to consider the pharmacy's clinical
22 business needs?

23 A. No.

24 Q. Okay. It says: "The DC may consider the

1 pharmacy's location."

2 Do you see that?

3 A. Um-hum.

4 Q. Was that something that you -- that you
5 ever did to determine whether or not an order should
6 be filled?

7 A. No.

8 Q. It says: "And the DC may consider the
9 pharmacy's population served."

10 Do you see that?

11 A. Yes.

12 Q. Was that something that you ever did in
13 considering whether or not an order should be filled?

14 A. No.

15 Q. Okay. You said that you called Barb from
16 time to time to ask her questions about things.

17 A. Um-hum. Yes.

18 Q. Were -- were you calling -- how many times
19 do you believe you called her to ask about a
20 pharmacy's clinical business needs?

21 MS. SWIFT: Object to the form, foundation.

22 BY THE WITNESS:

23 A. I would have no idea. Over eight years I
24 couldn't tell you.

1 BY MR. GADDY:

2 Q. Okay. How many times do you recall over
3 that eight years Barb telling you not to fill an
4 order?

5 MS. SWIFT: Object to the form, foundation.

6 BY THE WITNESS:

7 A. I really don't remember her -- any
8 particular conversation to recall if she ever said
9 don't fill an order.

10 BY MR. GADDY:

11 Q. As you sit here today, you don't recall
12 Barb ever telling you to not fill an order, correct?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. Correct, I don't remember if she ever told
16 me to not fill an order or not, uhn-uhn.

17 BY MR. GADDY:

18 Q. Okay. It goes on to say:

19 "Walgreens must report to the DEA any
20 order that is determined to be suspicious."

21 Do you see that?

22 A. Yes.

23 Q. And safe to say that if that was
24 occurring, it was not -- you were not doing it and you

1 were not directing that it be done, correct?

2 A. I personally was not, no --

3 Q. Okay. And you --

4 A. -- that's correct.

5 Q. -- you personally were not reporting and
6 you personally were not directing that it be reported?

7 A. I was not doing either because I thought
8 that's what the pharmacy integrity team did.

9 Q. Okay. And you don't have an understanding
10 of how long the pharmacy integrity team had been
11 there?

12 A. No.

13 Q. Okay. Let me show you P-WAG 225.

14 So it was your understanding that the
15 pharmaceutical integrity team was the one in charge
16 with being on the lookout for and looking for these
17 orders, correct?

18 MS. SWIFT: Object to form --

19 BY THE WITNESS:

20 A. Reporting.

21 MS. SWIFT: -- vague.

22 BY MR. GADDY:

23 Q. This is going to be Exhibit No. 10.

24 (WHEREUPON, a certain document was

1 marked Walgreens - Bish Deposition
2 Exhibit No. 10, for identification,
3 as of 02/01/2019.)

4 BY MR. GADDY:

5 Q. And if you look at the -- the lower e-mail
6 on the page from Tasha Polster?

7 A. Yes.

8 Q. And what's the date of that e-mail?

9 A. June 19th, 2013.

10 Q. Okay. And if you look in about the middle
11 of the "to" line, I think you'll find your name.

12 A. Yes.

13 Q. Okay. And so you received this e-mail?

14 A. Yes.

15 Q. And it looks like --

16 A. It appears so.

17 Q. I'm sorry?

18 A. It appears so.

19 Q. Okay. And it looks like next to your name
20 is Tammy who is the administration manager at
21 Perrysburg?

22 A. Yes.

23 Q. Okay. And the subject is: "Rx Integrity
24 Team and DEA agreement: Action Required."

1 Do you see that?

2 A. Yes.

3 Q. The e-mail says:

4 "Hello, for those of you that don't know
5 me, I'd like to introduce myself and my team. My name
6 is Tasha Polster. I am the Director of Pharmaceutical
7 Integrity."

8 Do you see that?

9 A. Yes.

10 Q. It says:

11 "I know Sue Thoss has given you my
12 information, but I would like to formally introduce
13 myself and let you know who to reach out to if you
14 have any questions or concerns."

15 Do you see that?

16 A. Yes.

17 Q. I had asked you earlier about Tasha
18 Polster and now you are --

19 A. Uh-huh.

20 Q. -- seeing here -- her here on this e-mail.

21 Is this refreshing your memory about who
22 she is or -- or does it not do anything for you?

23 A. It is not doing anything for me.

24 Q. Okay. It says:

1 "The overview document provides a brief
2 description of what my team does and the names and
3 contact information of each of my managers by
4 division. Feel free to reach out to any" -- "any of
5 us."

6 Do you see that?

7 A. Yeah.

8 Q. So, do you see here in this e-mail that --
9 that you are being introduced to the pharmaceutical
10 integrity team in June of 2013, correct?

11 A. Correct.

12 Q. Okay. Do you recall whether or not you
13 had any interaction with them whatsoever prior to June
14 of 2013?

15 A. Well, I don't know who "them" is.

16 Q. The pharmaceutical integrity team.

17 A. Okay.

18 Like I said, I used to talk to Barb, but I
19 couldn't tell you what years I talked to her or if it
20 was prior to June of 2013.

21 Q. Okay. Well, if I was to represent to you
22 that Barb Martin is not on the pharmaceutical
23 integrity team --

24 A. Um-hum.

1 Q. -- and so and with that representation, do
2 you recall ever having any contact or interaction with
3 the pharmaceutical integrity team prior to June 2013?

4 MS. SWIFT: Object to form.

5 BY THE WITNESS:

6 A. Well, not knowing -- I know Sue Thoss and
7 I've talked to her, but I wouldn't have known if she
8 was on this team or not, so I don't know how I can
9 answer that.

10 BY MR. GADDY:

11 Q. Okay. Well, let me give you some names of
12 folks that are --

13 A. Okay.

14 Q. -- on the team and ask --

15 A. Okay.

16 Q. -- you if you know them.

17 And I'd just read -- I'll just kind of try
18 to list some names and then tell you when I'm done and
19 you tell me if you know any of them.

20 A. Okay.

21 Q. Patty Daugherty, Ed Bratton, Chris
22 Diamond, any of those folks?

23 A. No. They don't sound familiar.

24 Q. Okay. Eric Stahmann?

1 A. No.

2 Q. So as it relates to having interactions
3 with folks about verifying orders or checking orders,
4 is Barb Martin that person for you?

5 A. She was, yes.

6 Q. So this June 2013 introduction to the
7 pharmaceutical integrity team, do you know whether or
8 not you had even heard of that team before this?

9 A. I had heard of the pharmaceutical
10 integrity team, because, as I said, I thought Barb
11 Martin was a part of that, but I -- this Tasha just
12 doesn't -- isn't familiar to me. It is not ringing a
13 bell at all.

14 Q. Okay. Okay. Let's go back to No. 9.

15 A. Number -- oh, okay.

16 Q. Okay.

17 Okay. And I'm on Bates No. 383 still. Is
18 that where you are? I'm sorry.

19 A. 383?

20 Q. Yes, ma'am.

21 A. Okay.

22 Q. Okay. You recall we went over some of
23 the -- some of the Overview section here?

24 A. Yes.

1 Q. Okay. It goes on to say, it -- it has
2 this -- this entry here:

3 "How to identify normal and expected
4 transactions," and then below that it has some -- some
5 entries. One of the topics is "ceiling limits."

6 Do you see that?

7 A. Yes.

8 Q. Does -- does that term mean anything to
9 you?

10 A. No.

11 Q. Okay.

12 A. I know what it means just because I know
13 what it means, but, no, it doesn't -- relative to
14 Walgreens, it doesn't mean anything to me.

15 Q. Okay. The -- okay. And that's what I was
16 getting at, within -- within Walgreens and as it
17 applies to orders of controlled substances, does that
18 mean anything to you?

19 A. No.

20 Q. Okay. If you look down at the very bottom
21 of the page, there is a heading that says Tolerance
22 Limits.

23 Do you see that?

24 A. Yes.

1 Q. And, again, with the same preface of as it
2 relates to Walgreens and any policies regarding the
3 ordering of controlled substance, does that mean
4 anything to you?

5 A. I've heard the term.

6 Q. In what context?

7 A. I mean, I know what a tolerance is, so I
8 would guess that's the definition of that, but that's
9 the only context.

10 Q. Well, and -- and I'm -- to be fair to you,
11 I'm not asking you to guess, so I'm asking if you've
12 heard the -- the word "tolerance" used in the context
13 of ordering controlled substances within Walgreens?
14 And if so, how -- what it means?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I don't have any memory of that, no.

18 BY MR. GADDY:

19 Q. Okay. Can you turn with me, please, to
20 Bates number ending 395.

21 And do you see at the top of -- excuse
22 me -- it looks like another Walgreens policy. In the
23 top right it says: "List 1 Chemical Stores and
24 Handling"?

1 A. Yes.

2 Q. Did your duties and responsibilities have
3 anything to do with List 1 chemicals?

4 A. I don't recall what List 1 chemicals are,
5 so I couldn't answer that.

6 Q. Okay. Was there anything under your
7 purview, any products under your purview other than
8 Schedule II controlled substances?

9 A. No.

10 Q. Let me show you what I'll mark as
11 Exhibit 11. This is going to be P-WAG 252.

12 (WHEREUPON, a certain document was
13 marked Walgreens - Bish Deposition
14 Exhibit No. 11, for identification,
15 as of 02/01/2019.)

16 BY MR. GADDY:

17 Q. And if you look at this document, do you
18 see this is an e-mail chain, and we are actually going
19 to start at the first e-mail in the chain which starts
20 at the bottom of the page with an e-mail from
21 Matt Nye.

22 Are you with me?

23 A. Yes.

24 Q. And do you see that he sends this e-mail

1 on Tuesday, May 8th, 2012?

2 A. Right.

3 Q. And he sends it to you and it looks like
4 to Lori Fenimore who was your C-II SAIL coordinator?

5 A. Yes.

6 Q. Okay. And if you look at the next page,
7 it looks like he also copies the computer room.

8 I guess they had a group e-mail?

9 A. Yes.

10 Q. Okay. What -- were there group e-mail
11 accounts that you would have been on?

12 A. I don't recall. I'm on some now in
13 inbound. I don't recall any when I was in C-II.

14 Q. Okay.

15 A. That doesn't mean I wasn't, I just
16 don't...

17 Q. Was there a function manager e-mail --
18 group e-mail account or...?

19 A. Oh, there was. Yeah, I have would have
20 been on that.

21 Q. Okay. Was it just -- was it -- is that
22 what it was, function managers?

23 A. Um-hum. Still is.

24 Q. Okay. Is there a SAIL e-mail account?

1 A. I believe there is.

2 Q. Would you have been on that?

3 A. No, I don't think so.

4 Q. Any others other than function manager?

5 A. No, that was the only -- that -- well,

6 then or now? Now I'm also on the -- all of the

7 inbound group e-mails, but --

8 Q. Okay.

9 A. -- because that's where I work now.

10 Q. No. And -- and thanks for asking.

11 Because I'll, again, just -- I'll try to tell you

12 otherwise, but otherwise -- but if I -- if I'm

13 intending to do something differently, but otherwise

14 I'm just asking about the distribution time period

15 when Walgreens would have been distributing

16 Schedule II drugs.

17 A. Okay. Okay.

18 Q. Okay. So let's look at Matt's e-mail. He

19 says:

20 "With what's happening in Jupiter," and

21 this is May of 2012, right?

22 A. Yep.

23 Q. Okay. And remember Exhibit No. 1 was the

24 April 2012 e-mail talking about the DEA issues going

1 on in Jupiter.

2 Do you recall that?

3 A. Yes.

4 Q. So it says:

5 "With what's happening in Jupiter, my
6 operators who do C-II are starting to question whether
7 or not the quantities for drugs that they typically
8 let go is correct. When we first started doing C-II,
9 the direction we got (possibly from Jupiter) was to
10 call the stores for any orders above [REDACTED] units of the
11 following items."

12 Do you see that?

13 A. Yes.

14 Q. Okay. So we've looked at a couple of
15 those different policies. I think one said [REDACTED] SKUs
16 was the -- was the -- the magic number, one, I think
17 from Mt. Vernon, said [REDACTED], and now we see here that
18 Matt is saying he may have been told at one point in
19 time that it was [REDACTED], correct?

20 A. It looks like that's what he thought it
21 was, yeah.

22 Q. Okay. Do you recall anything different
23 or -- or --

24 A. No.

1 Q. Do you recall whether there even was a
2 firm number?

3 A. The computer room was really the ones, the
4 only ones that had a number of orders, a number of, a
5 quantity of a certain item to look for. We didn't do
6 that down on the floor. That was supposedly done
7 before, again, it ever got to us, either by this
8 system or by the computer room.

9 Q. Okay. And then you see there he -- he has
10 a -- a list, a list of -- of some items, correct?

11 A. Yes.

12 Q. And he says oxy -- it looks like oxycodone
13 5-milligrams?

14 A. Yes.

15 Q. Okay. That -- that's not the only
16 strength of oxycodone that you would distribute, is
17 it?

18 A. No.

19 Q. Okay. What other strengths of oxycodone
20 would you distribute?

21 A. I think we had 10, 20, 30, I think --
22 well, I might be thinking OxyContin. I'm not sure.

23 Q. Well, OxyContin is oxycodone, right?

24 A. Well, it is the brand name.

1 Q. Sure.

2 A. Okay. But this says oxycodone, so I
3 thought you were talking oxycodone only.

4 Q. Okay. Do you --

5 A. But the OxyContin we had 80-milligram, I
6 remember that.

7 Q. Okay. Well -- well, okay. So for
8 OxyContin you had 5, 10, you said 20?

9 A. Well, I actually said that for oxycodone,
10 but for the OxyContin we had, I think there was even a
11 15.

12 Q. Okay.

13 A. But, yeah, it ranged, like, every ten --
14 it would be 10, 20, 30 and then I remember an 80. I
15 don't -- and maybe a 60 in the middle.

16 Q. Okay. But for this list that Matt says he
17 looks for --

18 A. Uh-huh.

19 Q. -- when evaluating these orders, what he
20 lists there is the oxycodone 5-milligrams?

21 A. Yes.

22 Q. Okay.

23 What other in -- I didn't realize
24 originally that you were making a distinction, so my

1 fault.

2 So what were the doses -- what were the
3 strengths of oxycodone in addition to the 5-milligram
4 that he says he looks for?

5 A. Those are the ones that we also had,
6 10-milligram, 20-milligram, 30-milligram, and I don't
7 remember beyond that.

8 Q. Okay. And the next drug that he says he
9 actually looks for is Methadose, correct?

10 A. Um-hum, yes.

11 Q. And is that 10-milligram the only strength
12 of Methadose that you all distributed?

13 A. I don't recall that at all. I mean, I
14 remember that drug. I don't recall what strengths we
15 had.

16 Q. Okay. And he indicates that he looked for
17 the 10-milligram methadone, correct?

18 A. Correct.

19 Q. Any other strengths of methadone that
20 Walgreens distributed?

21 A. I don't recall that one either.

22 Q. Okay. And fentanyl is listed there,
23 correct?

24 A. Yes.

1 Q. Okay. I think earlier when I had asked
2 you about what Schedule II drugs you -- you
3 distributed, you mentioned some of those, you also
4 mentioned, I think, morphine?

5 A. Um-hum.

6 Q. Okay. Were there any others that --
7 Schedule II drugs that Walgreens distributed that you
8 don't see listed here in Matt's list?

9 A. Yes. Several.

10 Q. Okay. Which ones?

11 A. Oh, I have -- I could in no way name those
12 off now. There were probably [REDACTED] per bay and there
13 were probably [REDACTED] bays, so that would be [REDACTED] items. I
14 don't recall what those all were.

15 Q. Okay.

16 A. These were some of them. I mean, I
17 remember these, I remember OxyContin.

18 Q. Okay. Hydromorphone?

19 A. Yes. Adderall, we had some Adderalls.

20 Q. So Matt goes on to say:

21 "It's common that stores order [REDACTED] plus and
22 sometimes even [REDACTED] plus SKUs."

23 That would mean bottles, right?

24 A. Yes.

1 Q. So:

2 "It's common that stores order [REDACTED] plus and
3 sometimes even [REDACTED] plus bottles of these though
4 intentionally. Last night for example, I think [REDACTED]
5 plus stores had quantities above [REDACTED] bottles for some
6 of these items. If we called each of these stores to
7 confirm (assuming the pharmacy manager was actually
8 available this late), it would take us hours before we
9 could run OP/OF."

10 Do you see that?

11 A. Uh-huh, uh-huh. Yes.

12 Q. What -- what's "OP/OF"?

13 A. Order pick/order fill.

14 Q. Okay. Pross -- it would -- saying it
15 would take hours before you could process the orders?

16 A. Right.

17 Q. "Most of these stores with huge orders
18 just get short with us and tell us that they are pain
19 clinics and that any future orders this high are okay
20 and not to call again."

21 Correct?

22 A. That's what it says, yeah.

23 Q. Okay. And so those orders where they are
24 saying that there is pain clinics, the order that's

1 that high is okay and don't call again, those orders
2 are getting filled, correct?

3 A. Unless there is anything that stood out as
4 being human -- you know, way over what we would expect
5 to pick for that item for any store, as I said before.

6 Q. Okay.

7 A. So...

8 Q. But what Matt is telling you is that when
9 they would call these stores they would call and be
10 told that they were pain clinics, that orders that
11 high were okay, and that you shouldn't call again?

12 A. That's what it says, yeah.

13 Q. Okay. And did Matt stop those orders
14 and -- and prevent them from going through?

15 MS. SWIFT: Objection; foundation.

16 BY THE WITNESS:

17 A. I don't know if he did or not. I'm not
18 sure I'd know if he did or not.

19 BY MR. GADDY:

20 Q. Do you ever recall getting a report from
21 Matt that he had called a store and told, We have a
22 pain clinic, orders this high are okay and don't call
23 again and you directed him to not fill the order?

24 A. Well, I never got a report from Matt. All

1 I got was a phone call, generally, and, no, I don't --
2 I would have not told Matt to hold an order. If there
3 was an order that needed held, I would have held it.
4 I wouldn't have needed to call him, you know what I
5 mean.

6 Q. Okay. After receiving information from
7 Matt --

8 A. Uh-huh.

9 Q. -- did you ever tell him to hold and not
10 ship an order for a reason such as this, a store says
11 that there is a pain clinic, that orders that high are
12 okay, and to stop calling?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. Not that I recall.

16 BY MR. GADDY:

17 Q. Outside of this e-mail right here, do you
18 ever recall Matt telling you that he would be told
19 from time to time that these high orders are because
20 of pain clinics and that orders that high are okay and
21 to stop calling?

22 A. Aside from the e-mail?

23 Q. Aside from this e-mail right here --

24 A. Yeah.

1 Q. -- and this e-mail in May of 2012.

2 A. I remember he and I discussing how to tell
3 what quantities to use, but aside from this e-mail
4 about the pain clinics and what he was told, this is
5 the only -- I mean, I see that I got this e-mail. It
6 makes sense, but I don't have -- remember having other
7 conversations with him.

8 Q. Okay.

9 Did you ever tell him to stop an order
10 because the justification from the store for the
11 orders was pain clinics?

12 A. No.

13 MS. SWIFT: Object to the form.

14 BY MR. GADDY:

15 Q. Matt in the computer room is then asking,
16 and I think the e-mail was to you and Lori Fenimore,
17 your C-II SAIL, correct?

18 A. Correct.

19 Q. He says:

20 "Can you guys give us some real, updated
21 guidelines on the drugs that are going to be an issue
22 if the DEA audits us? Do you have a list of pain
23 clinics where it would be acceptable to go above the
24 normal quantity for these items? Did I leave any

1 items out of the list that are important to check?"

2 Do you see that?

3 A. Yeah.

4 Q. Okay.

5 A. I see that.

6 Q. So -- so here in -- in May of 2012 it
7 looks like Matt's aware of the DEA investigation going
8 on in Jupiter, right?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Well, I don't -- does he say that?

12 BY MR. GADDY:

13 Q. Well, he says --

14 A. Oh --

15 Q. -- "with what's happening in Jupiter."

16 A. -- "with what's happening in Jupiter."

17 So he is aware something is happening in
18 Jupiter. I don't know what he is aware of.

19 Q. Okay. Well, in the last paragraph he
20 is -- he is wondering about what happens if the DEA
21 audits Perrysburg, right?

22 A. He is looking for updated guidelines on
23 the drugs that are going to be an issue if the DEA
24 audits us, that's what it says.

1 Q. Okay. So it looks like he is aware that
2 something is happening in Jupiter?

3 A. Um-hum.

4 Q. And he is questioning what number of
5 bottles should be of interest to him and his team for
6 these particular drugs, correct?

7 A. Correct.

8 Q. And he only lists four individuals drugs
9 and specific dosage or strength levels for three of
10 those drugs, correct?

11 A. Correct.

12 Q. Okay. And it looks like he is also asking
13 you about pain clinics and whether or not that's a
14 justification to ship higher quantities of pills?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Okay. I -- I don't see him asking me if
18 that's justification. He is just stating that that's
19 what they are telling him, right? That's what I'm
20 reading.

21 BY MR. GADDY:

22 Q. Well, in the last, second-to-the-last
23 sentence, he says:

24 "Do you have a list of pain clinics where

1 it would be acceptable to bow" -- "to go above the
2 normal quantity for these items?"

3 A. Okay.

4 Q. Do you see that?

5 A. Yeah.

6 Q. Did you have anything to give him there?

7 A. No.

8 Q. Okay. Had anybody from corporate given
9 you a list of pain clinics that were approved?

10 A. No.

11 Q. Had anybody from -- from corporate given
12 you any information that could help you answer Matt's
13 question as it related to -- to high orders of pills
14 due to pain clinics?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Not that I recall, no.

18 BY MR. GADDY:

19 Q. Do you know why -- why Matt and the
20 computer room were only checking for the 5-milligram
21 oxycodone pills?

22 A. No.

23 Q. When you saw that Matt and his team were
24 only checking for excessive orders of the 5-milligram

1 oxycodone pills --

2 A. Uh-huh.

3 Q. -- would that have caused you concern?

4 A. No, because, again, I thought we had a
5 program in place that would automatically cut orders
6 down and if something did get through, we would catch
7 it, just by it being excessive --

8 Q. Okay.

9 A. -- in and of itself, regardless of the
10 store or where it was.

11 Q. But if Matt in the computer room isn't
12 running checks for the 10-milligram pills, the
13 15-milligrams --

14 A. Uh-huh.

15 Q. -- the -- the 20-milligrams --

16 A. Uh-huh.

17 Q. -- I think the 8 -- the 80-milligram
18 OxyContin --

19 A. Uh-huh.

20 Q. -- that would be a hole in -- in -- in the
21 process, right?

22 MS. SWIFT: Objection; assumes facts not in
23 evidence and calls for a hypothetical.

24 BY THE WITNESS:

1 A. Well, I don't think so because, again, it
2 wasn't his query that was causing orders to be cut.
3 It was whatever they were doing -- whatever the system
4 was doing is what was supposed to be cutting them down
5 and that we were supposed to catch anything that came
6 through in spite of that.

7 BY MR. GADDY:

8 Q. Right.

9 And I'm asking about the second part of
10 that process, the -- when you say you catch anything
11 that comes through.

12 A. Oh, oh, I see what you are saying.

13 Q. Okay? And what Matt is telling you here
14 is that he runs that report for the oxycodone
15 5-milligrams, right?

16 A. Right.

17 Q. Okay. So if he is not running that report
18 for the 10-milligrams or the 20-milligrams or the
19 15-milligrams or the 80-milligram pills, that would be
20 a problem, right?

21 MS. SWIFT: Objection; hypothetical.

22 BY THE WITNESS:

23 A. It shouldn't be because we would -- we
24 didn't -- when we caught big orders, we didn't say,

1 Oh, it's -- it's for not -- it's for oxycodone, we
2 have to address it, it is for Adderall, we don't have
3 to address it.

4 Any item that was excessive in quantity we
5 would call the store. Whether he told me, you know
6 what I mean, or I'm just -- I probably shouldn't say
7 that. It didn't matter what item it was in
8 particular, if it was a higher than what we would
9 expect quantity for any store, we would call the
10 store, not just for these four items, for any item we
11 picked.

12 BY MR. GADDY:

13 Q. Okay. But you got your information about
14 who to call a store, of which stores to call from Matt
15 in the computer room, right?

16 MS. SWIFT: Object to the form.

17 BY THE WITNESS:

18 A. Not -- no, not -- not in itself. He
19 would -- he would call me if he couldn't get ahold of
20 a store, but the stores that had high orders had
21 nothing -- Matt had nothing -- was not involved in
22 those. It was the pickers that would come to me and
23 say, This store wants 100 of this, that's bizarre,
24 call them, and I would.

1 BY MR. GADDY:

2 Q. Okay. Well, and tell me if I'm wrong, but
3 I thought you told me that you would get information
4 from the computer room, notification -- notifications
5 from the computer room, and also notifications from
6 the pickers?

7 A. Correct.

8 Q. Okay. Okay.

9 So if Matt is only running his report for
10 that one particular strength of oxycodone --

11 A. Uh-huh.

12 Q. -- you would have to rely on the pickers
13 to give you any notifications about excessive orders
14 of the other strengths of the oxycodone, correct?

15 MS. SWIFT: Objection; hypothetical, asked and
16 answered several times.

17 BY THE WITNESS:

18 A. Yeah, I would rely on the pickers, um-hum.

19 BY MR. GADDY:

20 Q. Okay.

21 Okay. It looks like you respond to Matt
22 the same day.

23 Do you see that?

24 A. Yes.

1 Q. You say: "Matt: This has been an issue
2 for us as well."

3 What did you mean by that?

4 MS. SWIFT: Objection; calls for speculation.

5 BY THE WITNESS:

6 A. I mean that we also noticed the orders
7 getting bigger.

8 BY MR. GADDY:

9 Q. Okay. It says:

10 "To your point, Walgreens is so diverse
11 now, it is common for some stores to" -- "to order and
12 dispense 80 or 100 bottles of one of the items below."

13 Do you see that?

14 A. Yes.

15 Q. It says:

16 "For others, that would be outrageous. We
17 have no way of knowing."

18 Do you see that?

19 A. Yes.

20 Q. You had no way of knowing whether or not
21 any particular orders were justified for any
22 particular store, is that correct?

23 MS. SWIFT: Object to the form.

24 BY THE WITNESS:

1 A. Any particular quantity of an item on the
2 order?

3 BY MR. GADDY:

4 Q. Correct.

5 A. Oh, okay.

6 All we could do is call the store if it
7 looked like it was too big.

8 Q. And if the store told you that that's what
9 they wanted, then you would send the order?

10 A. I would use --

11 MS. SWIFT: Objection; mischaracterizes the
12 testimony.

13 BY THE WITNESS:

14 A. I would generally call Barb Martin first.

15 BY MR. GADDY:

16 Q. Okay.

17 A. Whatever her title was.

18 Q. And you recall calling Barb Martin one
19 time and she told you to fill the order?

20 MS. SWIFT: Objection, mischaracterizes the
21 testimony.

22 BY THE WITNESS:

23 A. I remember calling Barb Martin one time in
24 particular, but I called her many times over the eight

1 years, I didn't call her one time over the eight-year
2 period.

3 BY MR. GADDY:

4 Q. Okay. You don't ever recall Bob -- Barb
5 Martin telling you to not fill an order?

6 A. I do not recall that, no.

7 Q. Okay. But -- but this is an accurate
8 statement, that last sentence in that paragraph:

9 "We," I assume you mean the distribution
10 center, or -- or you and Lori? Who do you mean there
11 when you say: "We have no way of knowing"?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. Oh, that means we, the C-II department, is
15 what I would have meant.

16 BY MR. GADDY:

17 Q. Okay. You and the C-II department had no
18 idea what happens to the pills after they go on the
19 truck, is that fair?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. No, that's not fair.

23 BY MR. GADDY:

24 Q. Okay.

1 A. Well, after they go on the truck, they
2 would go to the pharmacy at the store.

3 Q. Are they still under your control when
4 they get on the truck after they are on the truck?

5 A. No.

6 Q. Okay. After the order goes to the store,
7 do you do any -- any follow-up with the store or the
8 pharmacy?

9 A. No.

10 Q. Okay.

11 A. They may call me and say I didn't get what
12 I ordered or I got, you know, something I didn't
13 order, something like that, but I didn't call them.

14 Q. Okay. And what you say in the second
15 sentence is, at this point in time, it is common for
16 stores to order and dispense 80 or 100 bottles of
17 these Schedule II controlled substances, correct?

18 A. Correct.

19 Q. That's not something that you are raising
20 any issue about, is that fair?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Well, for some stores it is common. There
24 were -- we did get to a point where there were certain

1 store numbers that we knew had big orders and those
2 were the ones I would call Barb about and find out are
3 they in a hospital, are they in a -- across the street
4 from a pain clinic or whatever, you know, those I
5 would call on. But the majority of the stores did not
6 order quantities in the hundreds of bottles of a --
7 any item at one -- in one order.

8 BY MR. GADDY:

9 Q. Okay. Did you keep a list anywhere of
10 these stores that -- that were -- where you say it was
11 common for those stores to -- to order [REDACTED] to
12 [REDACTED] bottles of these items?

13 A. Not a written list, no.

14 Q. Okay. I mean, you wouldn't want to keep
15 calling Barb about the same Walgreens that's located
16 in a hospital, right?

17 A. Right.

18 Q. So if -- if Store 01234 was in a hospital,
19 you'd want to know that so that when you saw the high
20 orders coming in you could just push those through,
21 correct?

22 A. Correct.

23 MS. SWIFT: Object to form.

24 BY THE WITNESS:

1 A. Correct.

2 BY MR. GADDY:

3 Q. Did you have any -- any type of list like
4 that or did you have it in your memory a certain
5 number of stores?

6 A. It was in my memory. It wasn't a written
7 list.

8 Q. Okay. Well, what you say is that:

9 "It is common for some stores to order and
10 dispense ■■■ to ■■■ bottles of the items. For others,
11 that would be outrageous. We have no way of knowing."

12 Correct?

13 A. Correct.

14 Q. You then go on to say:

15 "Therefore, I consulted Barb Martin, Rx
16 pharmacy manager at corporate."

17 Correct?

18 A. Correct.

19 Q. That's consistent with what you told us,
20 that if you had a question you would call Barb, right?

21 A. Yes.

22 Q. And it says:

23 "Her direction was to simp" -- "was simply
24 to not order for the stores via fax or phone."

1 Do you recall her telling you that?

2 A. I don't remember her telling me that, but
3 I wrote that, so she must have.

4 Q. Okay. You then go on to say:

5 "The large quantities are okay to ship so
6 long as they are system generated" --

7 A. Uh-huh.

8 Q. -- "and the store did not circumvent the
9 store ordering system."

10 A. Correct.

11 Q. Do you see that?

12 A. Yes.

13 Q. So Barb has told you that the large
14 quantities are good to go, correct?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. She has told me that we don't have to hold
18 those or question those as long as they have been
19 system generated because of the program that will
20 automatically look at their history, their order
21 history and their location and whether they are in a
22 hospital, and all of the things that I don't have
23 access to, before it drops the order.

24 BY MR. GADDY:

1 Q. Okay. And so this is May 2012, right?

2 A. Yes.

3 Q. Okay. And she is telling you the large
4 quantities are -- are good to go as long as the store
5 didn't manipulate the system?

6 A. Right, as long as it came through the
7 system, yeah.

8 Q. It says this was at the direction of her
9 director.

10 Do you see that?

11 A. Yes.

12 Q. Who was her director?

13 A. I don't remember.

14 Q. If you go down to the next paragraph, it
15 says:

16 "Frankly, I was not aware that somebody
17 gave you a number of 35, as we have hundreds of stores
18 that exceed that."

19 Do you see that?

20 A. I see that.

21 Q. Fair to say that it had not been your
22 practice to call any store that placed an order of
23 more than 35 bottles for a C-II?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. That would be correct.

3 BY MR. GADDY:

4 Q. It says:

5 "We try to catch the outrageous ones
6 during the pick and audit process so I have no problem
7 with you only trying to catch the triple digit orders
8 on any item."

9 And you -- and you underlined that phrase,
10 right?

11 A. Right.

12 Q. Okay. So it looks like there you are kind
13 of setting the magic number at -- at 100 is what you
14 are interested in -- in Matt and the computer room
15 folks looking at?

16 MS. SWIFT: Objection to form.

17 BY THE WITNESS:

18 A. That was just my suggestion. I wasn't
19 setting anything, but that was my suggestion. Yeah.

20 BY MR. GADDY:

21 Q. And -- and to be fair to you, you are not
22 trying to write a policy in this e-mail, right?

23 A. Right. Right.

24 Q. You are just giving him some anecdotal

1 suggestions about what to be on the lookout for?

2 A. Right.

3 Q. Was there any written policy or procedure
4 within Walgreens that -- that told you what the --
5 what the magic trigger number should be?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. The computer room supposedly had a number
9 and apparently it was 35. We did not. We were not
10 given a number.

11 BY MR. GADDY:

12 Q. Okay.

13 Do you have in -- is it your impression
14 even -- and I -- I saw how Matt said that there was
15 this 35 number in his first e-mail, but here you are
16 saying that there's hundreds of stores that exceed
17 that, right?

18 A. Yes.

19 Q. You agree that -- that leading up to this
20 May 2012, Matt wasn't actually calling all of these
21 hundreds of stores every day for anything over 35?

22 MS. SWIFT: Objection; foundation.

23 BY THE WITNESS:

24 A. I don't know. I have to read it again.

1 Is that what he said?

2 Well, it doesn't really -- it doesn't seem
3 very clear to me whether they did at that point or
4 not. It just said if we called the stores it would
5 take hours. I don't see anywhere where he says we are
6 not calling the stores or we are calling the stores
7 for that quantity.

8 BY MR. GADDY:

9 Q. Did you have an understanding of whether
10 or not he was calling hundreds of stores every day?

11 A. I did not have any understanding of who he
12 was calling. I knew he had been given a number and he
13 was running a report and calling stores. I -- that
14 was as far as it went with me.

15 Q. Do you think he was calling hundreds of
16 stores every day?

17 MS. SWIFT: Objection; foundation.

18 BY THE WITNESS:

19 A. I have no idea.

20 BY MR. GADDY:

21 Q. You then say:

22 "The items listed below," and I am back on
23 your e-mail. It says: "The items listed below have
24 no significance."

1 Do you see that?

2 A. Correct.

3 Q. What do you mean by that?

4 A. Meaning I didn't know why he had a list of
5 those four items versus all items. I didn't know what
6 significance those particular four items had.

7 Q. At any time while you were with Walgreens,
8 were -- were you provided any training or education by
9 anybody with Walgreens on what types of drugs were
10 most commonly abused?

11 A. I probably had phone conversations about
12 that, but no written --

13 Q. Okay.

14 A. -- information.

15 Q. What do you -- who would you have had
16 co -- phone conversations with about that?

17 A. The other DCs, perhaps, or Barb or whoever
18 I would just be conversing with about, you know,
19 orders, or...

20 Q. Okay.

21 Are -- are these instructional
22 conversations or anecdotal conversations? I mean,
23 give me a little context if you could, please.

24 A. I really -- I really can't recall the

1 context of any conversation to tell you if they are
2 anecdotal -- anecdote -- whatever that word is that I
3 can't say. Anecdote -- say it again.

4 Q. Anecdotal?

5 A. Anecdotal or --

6 Q. It is like me trying to say algorithm.

7 A. Yeah. I don't remember.

8 MS. SWIFT: You said it very nicely.

9 MR. GADDY: I did, didn't I?

10 BY THE WITNESS:

11 A. Yeah.

12 Sorry. I can't remember.

13 BY MR. GADDY:

14 Q. Let me ask it this way:

15 Were you ever giving -- given any
16 instruction or attended any -- sent to any classroom
17 session or attend any -- any type of -- of PowerPoint
18 presentation or anything like that where you were
19 told, for example, OxyContin is being very highly
20 abused and pills are being crushed and people are
21 injecting the pills, anything -- and -- and that's
22 just one specific example, but --

23 A. Right.

24 Q. -- at any time while you were with

1 Walgreens did -- did anybody with the company provide
2 to you any education or training on C-IIs being
3 abused?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. No. I think that was just known by
7 society in general.

8 BY MR. GADDY:

9 Q. Okay. You knew that from media reports
10 and --

11 A. 20/20, Dateline.

12 Q. Okay.

13 A. Yeah.

14 MS. SWIFT: Let him finish his question.

15 THE WITNESS: Oh, I thought he was done.

16 BY MR. GADDY:

17 Q. So when you say: "The items listed below
18 have no significance," you're just saying there is
19 nothing special about those pills and those strengths?

20 A. Correct.

21 Q. Okay.

22 You would -- I assume you would agree that
23 it would be just as important to look for high orders
24 of the 80-milligram oxycodone pills as it would the

1 5-milligrams?

2 A. I would agree.

3 Q. Okay. You would agree that it would be
4 just as important to look for excessive orders of
5 the 10s, the 15s, the 20s, all of those other
6 strengths of oxycodone, correct?

7 A. Correct.

8 Q. You go on to say:

9 "What we try to do is catch the stores
10 orders in which the" -- is that pharmacy manager?

11 A. Yes.

12 Q. -- "did not review and someone ordered
13 pills" -- "ordered by pills rather than bottles."

14 Do you see that?

15 A. Yes.

16 Q. And you say:

17 "For instance, today we received an order
18 for 101 bottles of an item. The store wanted one."

19 Correct?

20 A. Correct.

21 Q. And, again, that's consistent with what we
22 spent a lot of time this morning talking about, that
23 you were looking for these ordering inaccuracies or
24 ordering errors, correct?

1 A. Correct.

2 Q. You then say:

3 "It is Justin's call if he wants to have
4 you only screen the triple digit ones. You can't
5 possibly be calling all the stores with orders over
6 35."

7 Correct?

8 A. Correct.

9 Q. So whether Matt and his folks were calling
10 those stores or not, your guidance is for him to not
11 do that?

12 A. My guidance was I don't know how you could
13 do that.

14 Q. Okay. And -- and I -- and your guidance
15 is triple digit orders?

16 A. Yeah, that was doing -- my solution. He
17 and I were trying to figure out, I think, what -- what
18 was the right thing to do and that was my suggestion.

19 Q. And -- and that suggestion was reasonable
20 because, A, it was common for stores to order and
21 dispense 80 to 100 bottles of those items.

22 A. Uh-huh.

23 Q. And, B, because Barb Martin had told you
24 the big items were -- were okay to ship as long as the

1 stores didn't manipulate the system?

2 A. The system, yep.

3 Q. I'm going to show you a later e-mail on
4 this same topic. This is going to be Exhibit No. 12,
5 P-WAG 255.

6 (WHEREUPON, a certain document was
7 marked Walgreens - Bish Deposition
8 Exhibit No. 12, for identification,
9 as of 02/01/2019.)

10 BY MR. GADDY:

11 Q. And if you flip to the second page to
12 where we start this chain, it starts with an e-mail
13 that -- that I'm not able to read from Sharon Horkott.

14 Do you know who that is?

15 A. It doesn't ring a bell.

16 Q. Okay. And let me ask you about several
17 folks on the -- on the "to" line there. The first one
18 is Dwayne Pinon.

19 Do you know who that is?

20 A. Yes. He was a lawyer, I believe.

21 Q. Okay.

22 Have you had the opportunity to have any
23 professional interaction with -- with Mr. Pinon
24 through the course of your job duties?

1 MS. SWIFT: That's just a yes-or-no question.

2 BY THE WITNESS:

3 A. I have no idea. I don't recall.

4 BY MR. GADDY:

5 Q. Okay.

6 Do you -- has there ever been a situation
7 where you've needed to call Mr. Pinon and ask him
8 questions about anything that you are doing at the
9 distribution center?

10 MS. SWIFT: And, again, just answer yes or no.

11 BY THE WITNESS:

12 A. No.

13 BY MR. GADDY:

14 Q. The next person listed there is
15 Kristine Atwell.

16 A. Yes.

17 Q. Do you know who that is?

18 A. Yes.

19 Q. Who is Ms. Atwell?

20 A. She was the C-II function manager at
21 Jupiter.

22 Q. Okay. Was -- as far as you know, was she
23 the only one there -- the -- let me put that in a
24 better way.

1 So you were the only C-II function manager
2 over the life of C-II distribution at Perrysburg,
3 right?

4 A. Right.

5 Q. Would -- same with Kristine at -- in
6 Jupiter?

7 MS. SWIFT: Objection; foundation.

8 BY THE WITNESS:

9 A. I don't know. There could have been
10 someone before her. I don't know.

11 BY MR. GADDY:

12 Q. Okay.

13 A. She was the one when I went there to
14 train, so...

15 Q. Okay. Okay.

16 So when you started, I think the date on
17 the LinkedIn was 2006, you would have gone and met
18 with Kristine to train?

19 A. Right.

20 Q. Okay. So was she the one that trained
21 you?

22 A. Yes.

23 Q. Who was the C-II function manager for
24 Woodland's?

1 A. That did change. Initially the first time
2 I went out it was Phil someone. I don't remember his
3 last name. He quit shortly after I went out. And
4 when I went back the second time it was Dave someone.
5 I don't remember his last name either.

6 Q. Okay.

7 Were there -- did -- the function
8 managers, you, Kristine, Phil and/or Dave, did you all
9 ever have regular meetings where you all would get
10 together and talk about issues common to your
11 position?

12 A. No.

13 Q. Did you ever get together with anybody
14 in -- in a -- in a meeting or update setting from
15 folks that worked at different distribution centers to
16 kind of talk about common issues for the distribution
17 centers?

18 A. Did I?

19 Q. Were you ever involved in any of that?

20 A. No.

21 Q. Okay.

22 Okay. Well, regardless, do you see the
23 subject line of that e-mail is: "Suspicious drug
24 process"?

1 A. Um-hum.

2 Q. And if you look above, it looks like Steve
3 Kneller forwards that e-mail around to some people,
4 correct?

5 A. Correct.

6 Q. And Steve, I think you said, was the
7 distribution center manager at Perrysburg?

8 A. He was during some timeframe, although I
9 don't know which years. He started as ops manager,
10 then he became manager.

11 Q. Okay.

12 A. Yeah.

13 Q. And it looks like it went to Matt in the
14 computer room, Jen Diebert, who was the SAIL for C-III
15 through Vs, and Tammy Trumbull, who was the admin
16 manager, correct?

17 A. Correct.

18 Q. Would you have been on -- on this group
19 e-mail, it looks like it is --

20 A. I am not on the DCM-MO-IO group --

21 Q. Okay.

22 A. -- if that's what you are asking.

23 Q. And Steve asked these people: "Are we
24 cool with this?"

1 Do you see that?

2 A. Yes.

3 Q. All right. If we go up, flip the page, do
4 you see Matt's response? And it looks like he brought
5 you into the mix, he copied you?

6 A. Yes.

7 Q. And he says:

8 "I have some questions." He says:

9 "Excessive to us for C-II is any item over
10 100 bottles."

11 Correct?

12 A. Correct.

13 Q. And that's con -- and -- and if you look
14 at the date of this e-mail, this is May 29th of 2012,
15 right?

16 A. Right.

17 Q. So this is a couple of weeks after you've
18 told him that you would look at triple digits as
19 opposed to the 35 that he had been using, right?

20 A. Right.

21 Q. Okay. So it looks like he accepted that
22 number.

23 A. Well, yeah, it does look that way.

24 Q. Okay. It says:

1 "Excessive to us for C-II is any item over
2 100 bottles. Is this acceptable? Do we need to
3 change the threshold at which we call for C-II
4 overages? If we go much lower, we're going to need
5 significantly more time to run C-II as calling each
6 store takes about five minutes."

7 Did you see that?

8 A. Yes.

9 Q. So at least at this point, late May
10 of 2012, the magic number or trigger number that was
11 being used for C-IIs at Perrysburg was 100 bottles of
12 a controlled substance, correct?

13 MS. SWIFT: Objection; foundation.

14 BY THE WITNESS:

15 A. It looks like that's what he is asking if
16 we should use.

17 BY MR. GADDY:

18 Q. Well, he says that that's what they use
19 and he is asking whether or not that's okay, right?

20 A. Right.

21 Q. Okay. So at this point in time, according
22 to Matt, who I think you told us is the one that's
23 running this, this initial query --

24 A. Right.

1 Q. -- anything at 100 bottles or below would
2 not pique their interest as far as a follow-up call to
3 a pharmacy, correct?

4 MS. SWIFT: Objection; foundation.

5 BY THE WITNESS:

6 A. I really can't tell. From this verbiage
7 on here, I can't tell if he is already doing that or
8 if he is asking if it's okay to do that. So I don't
9 know how I could answer that.

10 BY MR. GADDY:

11 Q. Okay.

12 Well, he says: "Excessive to us for C-II
13 is any item over 100 bottles," right?

14 A. I see that, um-hum.

15 Q. Okay.

16 A. And then he says: "Is this acceptable?"
17 So I don't know if he is doing that.

18 Q. And then he says:

19 "Do we need to change the threshold at
20 which we call for C-II overages," right?

21 A. Yes.

22 Q. Okay. So he is asking whether or not it
23 can stay where it is or whether or not it needs to be
24 changed?

1 MS. SWIFT: Objection; asked and answered, lacks
2 foundation.

3 BY THE WITNESS:

4 A. Well, he is definitely questioning what
5 should be the number. I see that.

6 BY MR. GADDY:

7 Q. Okay. He goes on to say:

8 "Oftentimes, no one at the pharmacy can
9 make the decision to change the order. Do we just
10 leave it and e-mail Linda for being suspicious or make
11 it 100 bottles and log it?"

12 Do you see that?

13 A. Yes.

14 Q. It says:

15 "Currently we drop it to 100 bottles if we
16 can't get a real answer from anyone."

17 Do you see that?

18 A. Yes.

19 Q. Do you understand that to mean that if --
20 that if he can't get somebody to say, Yes, we really
21 need 120 or whatever the -- the -- the larger order
22 is, that he just drops it to 100 and sends that?

23 MS. SWIFT: Objection; foundation.

24 BY THE WITNESS:

1 A. Well, it kind of -- it's -- the document
2 looks like that's what he is saying, but he is asking,
3 Do we just leave it and e-mail Linda, et cetera, et
4 cetera. And he is saying, Currently we drop it to
5 100. But, again, I'm -- I don't work up there. I'm
6 not real sure, but...

7 BY MR. GADDY:

8 Q. What are the number of pills that these
9 C-II bottles contain? I mean, I assume there is a
10 range, right?

11 A. Generally a hundred, a hundred pills.

12 Q. Okay.

13 A. Um-hum.

14 Q. So when he is talking about that he would
15 fill without making a phone call any item that's 100
16 or less, that's 100 -- an order for 100 bottles would
17 be, what, 10,000 pills?

18 MS. SWIFT: Objection; mischaracterizes the
19 document.

20 BY THE WITNESS:

21 A. If that's -- if he means that. I call a
22 SKU a bottle of a hundred. I don't know what he calls
23 it, but I would think the same.

24 BY MR. GADDY:

1 Q. Well, you don't think he means 100 pills,
2 do you? You don't think he is saying he calls for
3 every order of more than one bottle?

4 A. No --

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. -- I don't think so.

8 BY MR. GADDY:

9 Q. That wouldn't make any sense, would it?

10 A. It would not, no.

11 Q. I mean, in the last e-mail you -- you told
12 him it is common to have stores order 80 to
13 100 bottles?

14 A. Right.

15 Q. Okay. And you are filling these orders
16 for over 5,000 stores a week, right?

17 A. Correct.

18 MS. SWIFT: Objection; form.

19 BY MR. GADDY:

20 Q. And according to this policy that Matt
21 is -- or -- or I should say practice that Matt is
22 saying is in place at this time, shipping 10,000 pills
23 of Schedule II controlled substances is something that
24 would happen without any follow-up activity to that

1 particular store?

2 MS. SWIFT: Objection; mischaracterizes the
3 document and lacks foundation.

4 BY THE WITNESS:

5 A. I wished I knew what Matt was -- I wish I
6 was in Matt's head. If he is saying they currently
7 drop it down to 100 SKUs if they can't get an answer,
8 then that must -- that would be 10,000, if they
9 were -- if they were bottles of a hundred, depending
10 on what the item was, but...

11 BY MR. GADDY:

12 Q. Okay. So if -- even if they order more
13 pills, according to this e-mail from Matt, they'll
14 just send them 10,000 pills?

15 MS. SWIFT: Same objections, lacks foundation.

16 BY THE WITNESS:

17 A. It sounds like what he is -- that's what
18 he is trying to establish in this e-mail is what does
19 he do if it's over a hundred. And what he is saying
20 is that currently they drop it down to a hundred SKUs.
21 So that's what the document says.

22 BY MR. GADDY:

23 Q. Okay. All right. I want to switch topics
24 a little bit here and ask you some more questions

1 about some -- some of the suspicious order reports.

2 A. Can I take a quick restroom break?

3 Q. Absolutely.

4 A. Okay. Just --

5 Q. Whenever you want.

6 A. -- five seconds is all I need.

7 THE VIDEOGRAPHER: We are going off the record
8 at 11:07.

9 (WHEREUPON, a recess was had
10 from 11:07 to 11:19 a.m.)

11 THE VIDEOGRAPHER: We are back on the record at
12 11:19.

13 BY MR. GADDY:

14 Q. Okay. Ms. Bish, I'm going to switch
15 topics a little bit and ask you a little bit more
16 about the suspicious order program and the suspicious
17 order reports and see if -- see if anything that I say
18 or show you jogs your memory about anything that
19 you --

20 A. Okay.

21 Q. -- knew about or -- or were told at your
22 time at Walgreens.

23 To put some of these documents in context,
24 my memory is that we've agreed after looking at your

1 LinkedIn profile that it was early 2006 that you began
2 the process of bringing the C-II distribution onboard
3 at Perrysburg, is that fair?

4 MS. SWIFT: Objection; mischaracterizes the
5 testimony and the document.

6 BY THE WITNESS:

7 A. I think that's what it said.

8 BY MR. GADDY:

9 Q. Did you have a chance to look back at
10 that?

11 A. Well, it says October of 2002, let's
12 see -- oh, yeah, 2006, there it is, yeah.

13 Q. Okay. And tell me if I'm wrong, but I
14 think you said that you believed you all started
15 distributing product in March or April of 2006 after
16 going through some training at some of the other
17 distribution centers?

18 MS. SWIFT: Objection; mischaracterizes the
19 testimony.

20 BY THE WITNESS:

21 A. I didn't recall. I was talking about the
22 regular DC when we opened and how we went out and
23 then -- is that what you are talking about?

24 BY MR. GADDY:

1 Q. I'm sorry. So I got confused.

2 So it was in 2002 that you opened the
3 Perrysburg dis -- distribution center for products not
4 including C-IIs, correct?

5 A. Correct, correct.

6 Q. Okay. And at some point in 2006 is when
7 the C-II distribution came online at Perrysburg?

8 A. Right.

9 MS. SWIFT: Objection; mischaracterizes the
10 testimony.

11 BY MR. GADDY:

12 Q. I'm sorry, Ms. Bish. I didn't get your
13 answer?

14 A. Correct, it says: "2006 - selected to
15 coordinate and manage startup of C-II vault," so...

16 Q. Okay. Do you remember what time of year
17 it was in 2006?

18 MS. SWIFT: Objection; asked and answered.

19 BY THE WITNESS:

20 A. I don't recall.

21 BY MR. GADDY:

22 Q. Okay. When you underwent the training for
23 the C-II --

24 A. Uh-huh.

1 Q. -- when you went to Woodland --

2 A. Uh-huh.

3 Q. -- for a week or two and then you went to
4 Jupiter for a week or two and then I think you went
5 back with your team?

6 A. Right.

7 Q. To both locations?

8 A. Right.

9 Q. Do you recall ever receiving any training
10 during those sessions regarding suspicious order
11 monitoring?

12 MS. SWIFT: Objection; asked and answered.

13 BY THE WITNESS:

14 A. I don't recall training specific to
15 suspicious order monitoring. It was mainly, this is
16 what you do, you know, these are the forms you have to
17 fill out, if -- they explained the 106, how you filled
18 it out, you know, but I don't recall any specific to
19 that, no.

20 BY MR. GADDY:

21 Q. Okay. Let me show you what I will mark as
22 Exhibit 13.

23 (WHEREUPON, a certain document was
24 marked Walgreens - Bish Deposition

1 Exhibit No. 13, for identification,
2 as of 02/01/2019.)

3 BY MR. GADDY:

4 Q. P-WAG 2422.

5 And do you see this is a letter on DEA
6 U.S. Department of Justice letterhead?

7 A. Yes.

8 Q. And it looks like the letter is stamped
9 May 17, 2006?

10 A. Yes.

11 Q. And it is addressed to a Todd Polarolo?

12 A. Polarolo, yeah.

13 Q. Okay. Thank you.

14 And who was that?

15 A. He was the distribution manager at the
16 time.

17 Q. Okay. And this was in Perrysburg, Ohio?

18 A. Yes.

19 Q. Okay. And -- okay. So let's look at the
20 letter. It says:

21 "During the month of March 2006, Diversion
22 Investigators Angela Francis and James Rafalski of the
23 DEA completed a regulatory investigation of your
24 firm."

1 Do you see that?

2 A. Yes.

3 Q. It says:

4 "The regulatory investigation revealed
5 recordkeeping inadequacies and security deficiencies.
6 The discrepancies noted are as follows."

7 Do you see that?

8 A. Yes.

9 Q. Do you recall this DEA inspection in March
10 of 2006?

11 A. I recall -- I don't recall -- they came to
12 our building in the middle of the night once. I don't
13 know when that was. And prior to that they had come
14 down, but I thought it was two women, I don't recall a
15 man, so I don't know which one they are talking, I
16 don't remember which year each one was.

17 Q. Okay. So you remember two different
18 occasions?

19 A. Um-hum.

20 Q. Fair?

21 A. Um-hum.

22 Q. You have to say yes or no.

23 A. Yes. Sorry.

24 Q. Were you there for either of those two

1 occasions on the premises?

2 A. I was there when they arrived during the
3 day. When they came at ten o'clock at night, they
4 called me at home and I came in.

5 Q. Okay. Both times the DEA came on
6 Perrysburg property that you are aware of, were you
7 serving in the capacity of a C-II function manager?

8 A. Yes.

9 Q. Okay. When the two occasions that you
10 recall DEA coming on property --

11 A. Uh-huh.

12 Q. -- while you were the C-II function
13 manager, did you have any interactions with the DEA?

14 A. Yes.

15 Q. Okay. So let's start with the first one.
16 Was that the one at night or the one
17 during the day?

18 A. I believe that was the one during the day.

19 Q. Okay. Did you know that they were coming
20 in advance?

21 A. I -- I don't recall if I knew they were
22 coming or not.

23 Q. Okay. The time that they came -- the
24 second time they came, the one at night, did you know

1 in advance that they were going to be coming?

2 A. No.

3 Q. How many DEA agents came the first time
4 during the day?

5 A. I really -- there were two that came back
6 to my office. If there -- there could have been more
7 that stayed upfront. I don't -- I don't know. My --
8 my -- I'm in the ops cluster in -- halfway through the
9 building. There may have been more that came in the
10 front door. Two came back to my office.

11 Q. Okay. Describe for me just in your own
12 words how that happened, the DEA coming in to see you
13 at the Perrysburg distribution center.

14 A. How it happened?

15 Q. Just -- just walk me through it. If you
16 were to -- to get home at the end of the day and one
17 of your family members asked you what happened, I
18 would imagine that would be noteworthy. Walk me
19 through it like you would have one of your family
20 members as far as what happened when the DEA came into
21 the Perrysburg distribution center.

22 MS. SWIFT: Object to form.

23 BY THE WITNESS:

24 A. Well, to my memory, it wasn't anything

1 that seemed like a bad thing. They came, they sat
2 across from my desk, they had asked to see some 1-0 --
3 in particular, 106 forms, which of course they get a
4 copy of them when we file it anyway, they had asked to
5 see our 222 forms, an example of those, so I just
6 pulled what they asked for.

7 I mean, and, again, I -- I recall it being
8 two women that were there. In fact, I know it was the
9 two women were the ones in my office, one being this
10 Francis -- Angela Francis.

11 Q. Okay. So you know who that is?

12 A. Um-hum.

13 Q. How long were they there that -- on that
14 first occasion?

15 A. I really don't remember, but I would think
16 at least half a day.

17 Q. Okay.

18 A. Four hours.

19 Q. Okay. Was it just the one day?

20 A. To my recollection, it was just the one
21 day.

22 Q. What did they do during the course of
23 those four hours?

24 A. Asked to see just what I said, they would

1 say we need to see the 106 for Store ABC, you know,
2 1234 filed on this date. And I would go pull it and
3 show it to them. And then they wanted to see 222
4 forms that had already been completed, they wanted to
5 see some that had not been shipped yet, they would --
6 you know, just examples of our paperwork.

7 Q. Okay. And the four hours that they were
8 there, approximately four hours, is -- is that a fair
9 description of what they did for those four hours,
10 asked for different forms of documentation that you
11 would be expected to have on file?

12 A. Yes.

13 Q. Okay. Anything other than them asking for
14 specific records or documentations during that first
15 visit?

16 A. Not that I recall.

17 Q. Did you have any -- strike that.

18 After you had that interaction with the
19 DEA, did you make a report about what had happened
20 to -- to anybody at Walgreens?

21 A. No, not a written report, uhn-uhn.

22 Q. Okay. Did you report even verbally to
23 anybody at Walgreens about what had happened?

24 A. I don't remember reporting verbally, but

1 I'm sure I went to the manager and said, Well, you
2 know, here is what they asked for and this is what I
3 gave them. I -- I don't recall that conversation, but
4 I'm sure I would have done that.

5 Q. Did the -- do you recall them raising any
6 specific questions or concerns when they came in on
7 that first occasion?

8 A. Not with me.

9 Q. Okay. Do you recall anybody else that
10 they met with during that first occasion?

11 A. I -- I would have no way of knowing --

12 Q. Okay.

13 A. -- who they saw before me or after me.

14 I -- I didn't follow them, you know. I don't know.

15 Q. Was -- was somebody escorting them around
16 the -- the premises? I mean, was -- was Tammy the
17 admin manager kind of in charge or do you recall?

18 A. Someone must have walked them back,
19 otherwise they wouldn't have known where I was. I --
20 and I don't recall who that was, who actually walked
21 them back to my office, I don't remember.

22 Q. Okay. Do you recall receiving any
23 feedback after the DEA had come on that first occasion
24 about their findings or conclusions about what they

1 asked to see and what they looked at?

2 A. The only thing I remember is, I think I
3 mentioned that already, is that we -- when we were
4 read -- when we was writing in the date items were
5 shipped on the 222 form, we had been writing the date
6 at the top and a straight line down. And they said,
7 you know, we had to write the date on every line.
8 That's the only thing I remember that they brought --
9 that I heard about.

10 Q. And that was feedback that you received
11 from the DEA after that first visit?

12 A. Well, it didn't come from the DEA. I
13 believe it came from -- internally from Todd or, you
14 know, someone internally.

15 Q. Okay. Did Todd have the same job that
16 Steve Kneller had?

17 A. Todd was the manager and Steve was the ops
18 manager initially. And then Todd was promoted and
19 Steve became manager.

20 Q. Okay. Tell me about the second occasion
21 that the DEA, that you are aware of that the DEA
22 visited the Perrysburg distribution center?

23 A. That was the one they came and I, believe
24 it or not, remember the time because I had just gone

1 to bed. It was like ten o'clock at night. So I just
2 got dressed, went back in, and it was basically the
3 same thing, only this time there were a lot more of
4 them. I do recall that there were several officers in
5 the front by the OP desk when I walked in. There were
6 still only two that came back to my office and
7 specifically asked for, again, the same thing. They
8 asked for forms, you know, can you show us this, we
9 want to see samples of that, and so that's what I gave
10 them. I gave them what they asked for.

11 Q. Okay. When you say there were more that
12 time, approximately how many do you think there were?

13 A. I probably saw four additional people, but
14 I -- that's what I saw when I walked in. They could
15 have already gone over here or over there, so I don't
16 really -- I couldn't really say.

17 Q. When you say "four additional," do you
18 mean four plus the two?

19 A. Yes.

20 Q. Okay. So you saw six?

21 A. Yes.

22 Q. Any indication of why they came at
23 ten o'clock at night?

24 A. I -- no.

1 Q. But regardless, you had to be called out
2 of bed to go back in to the Walgreens distribution
3 center to deal with the DEA?

4 A. They asked me to, yes.

5 Q. And approximately how long did you have to
6 stay at the distribution center after being called out
7 of bed?

8 A. I think it was about four in the morning,
9 three or four in the morning.

10 Q. Okay. So you were there for several
11 hours?

12 A. Yes, uh-huh.

13 Q. Okay. And what type of -- of documents
14 were they asking you to pull during this time?

15 A. The same as the first time, the 106 forms,
16 the 222 forms. I don't really recall anything aside
17 from those. I mean, I'm sure they asked for other
18 things, but those are the only ones I remember.

19 Q. Other than asking you for documents or
20 records, did they ask you any questions about your
21 practices?

22 A. I don't remember if they did or not.

23 Q. Okay. Do you recall them talking to
24 anybody else on that occasion?

1 A. Anybody else from the DEA?

2 Q. I'm sorry.

3 Do you recall the DEA talking to anybody
4 else at the distribution center?

5 A. They didn't talk to anyone else, not that
6 I know of, but they could have easily talked to anyone
7 that I wouldn't have been aware of.

8 Q. Was it the same two female agents from the
9 first time that you spoke with?

10 A. I only remember the -- I only remember
11 Angie being one of them. I can't recall who the
12 second one was.

13 Q. How often have you had the occasion to --
14 to interact with Angie?

15 A. That would have been the second time. She
16 was there the first time, too.

17 Q. Okay.

18 A. Yeah.

19 Q. Other than those two times where -- where
20 Agent Angela Francis has come to the distribution
21 center, have you ever interacted with her?

22 A. I have talked to her on the phone.

23 Q. Okay.

24 A. If that's what you call interaction, yeah.

1 Q. Sure.

2 And in what context -- or let me ask you
3 this first:

4 How many times do you believe you've --
5 you've spoken with Investigator Francis?

6 A. Probably just once or twice. It wasn't
7 often.

8 Q. Okay. So add that to the two in-person
9 meetings and four plus --

10 A. Three or four, uh-huh.

11 Q. Okay. In what context have you had
12 conversations over the phone with the DEA Investigator
13 Angela Francis?

14 A. One time when we were picking a bottle of
15 pills, the lid wasn't on tight and when we picked it
16 they went flying. So I knew how to handle damages,
17 you had to, you know, save all of the pills and go
18 through this process, but one of our team members
19 accidentally stepped on a couple of pills, so all I
20 had was a little pile of powder. I didn't know if I
21 had to save that and scrape it up or if I could just
22 clean it up. And so I had to call and ask her how do
23 I handle that, because I didn't know. And I had
24 called the other C-IIs and they had never had that

1 happen, so I had to call her because I didn't know who
2 else to call.

3 Q. Any other context in which you ever recall
4 reaching out to Investigator Francis?

5 A. I remember -- I mean, I may have called
6 her another time, but I can't remember what for, so I
7 don't know.

8 Q. Okay. Safe to say you never reached out
9 to Angela Francis to notify her of excessive orders of
10 controlled substances?

11 A. No.

12 Q. Okay. So if we go back to this May 17,
13 2006 letter from the DEA to Mr. Polarolo, did I say
14 that right?

15 A. Pola -- it is a weird name, Polarolo.

16 Q. Polarolo?

17 A. Yeah.

18 Q. Okay.

19 And it indicates there that Investigator
20 Francis and Investigator Rafalski -- excuse me -- of
21 the DEA did a regulatory investigation of Walgreens.

22 Do you see that?

23 A. Correct, yes.

24 Q. And just knowing, going through those two

1 visits that the DEA made to Perrysburg that we just
2 talked about, do you remember whether one of those
3 would have been the 2006 timeframe or would those have
4 been after that or do you not know?

5 A. I don't know.

6 Q. Okay. And it indicates that their
7 investigation revealed some recordkeeping inadequacies
8 and security deficiencies and then it lists them here.

9 Do you see that?

10 A. Yes.

11 Q. The very first one says:

12 "The formulation utilized by the firm for
13 reporting suspicious ordering of controlled substances
14 was insufficient."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And according to what I think we've
18 established from your LinkedIn, this would have been
19 in the time period that the C-II vault and C-II
20 distribution process at Perrysburg was coming online,
21 correct?

22 A. It would appear to be, yes.

23 Q. And the DEA is telling you that in this
24 time period Walgreens' formulation for reporting

1 suspicious orders is insufficient, correct?

2 MS. SWIFT: Object to form.

3 BY THE WITNESS:

4 A. Correct.

5 BY MR. GADDY:

6 Q. Okay. And you agree with me that -- that
7 that's not a good thing, right?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Well, it's saying that -- I haven't read
11 the rest of it yet, which I'd like to in a second, but
12 I had never heard this.

13 BY MR. GADDY:

14 Q. And -- and -- and I'll let you read it as
15 much as you want to read, my question is just simply
16 directed to that first sentence of Paragraph 1.

17 You would agree with me it's not a -- it
18 would not be a good thing for the DEA to come in and
19 say, Hey, your -- your system for reporting suspicious
20 orders is insufficient?

21 MS. SWIFT: Take your time to read whatever you
22 need to read to answer the question.

23 THE WITNESS: Okay.

24 MS. SWIFT: And objection to form.

1 BY THE WITNESS:

2 A. Okay. I've never heard of that
3 calculation, but someone must have told them that
4 that's what we did.

5 BY MR. GADDY:

6 Q. And they said it was insufficient, right?

7 A. Yes, they did think it was insufficient.

8 Q. Okay. And -- and you agree that's not a
9 good thing?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. It would not seem to be, without knowing
13 the details, but it would not seem to be a good thing,
14 no.

15 BY MR. GADDY:

16 Q. Okay. And if you skip a sentence, there
17 is another sentence under the -- about the middle of
18 that paragraph on the right-hand side, it starts:
19 "The system in place."

20 Do you see that?

21 A. Oh -- yes.

22 Q. It says:

23 "The system in place determined the amount
24 of daily prescriptions filled by each of its customers

1 of both non-controlled and controlled substance
2 prescriptions. This amount was utilized to place each
3 customer in groupings each containing 25 customers.
4 Of these 25 customer groupings, the firm calculated
5 the average order per item of each controlled
6 substance. The firm then took the average and
7 multiplied that figure by three."

8 Do you see that?

9 A. Yes.

10 Q. It says:

11 "This calculated figure was then used as
12 the base to report suspicious orders above such
13 figure."

14 Do you see that?

15 A. Yes.

16 Q. Okay. So, it says the system was
17 insufficient and then it describes the system that
18 Walgreens was using.

19 Were you aware of that particular system
20 for identifying suspicious orders?

21 A. No.

22 Q. Did anybody at Walgreens ever explain to
23 you how suspicious orders were identified?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Yes, it was explained to me that the
3 computer room ran a query and that the system itself,
4 again, would cut orders down if they were too high,
5 making them suspicious.

6 BY MR. GADDY:

7 Q. Okay. Was it ever explained to you in any
8 sort of detail what the computer room or the system
9 or -- did it ever -- were you -- was it ever explained
10 to you what they were looking at?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. Well, I know the computer room was looking
14 at a certain quantity of -- and, again, that's
15 debatable what that quantity was.

16 The program itself, I understood it,
17 whether they had said that directly, my understanding
18 was that it was going to look at the -- the background
19 and the history and, you know, their sales and their
20 inventory and determine if it was reasonable for them
21 to order those amounts.

22 BY MR. GADDY:

23 Q. Okay. And that was something that was
24 told to you by Anaya?

1 A. Ann Anaya, yes.

2 Q. Ann Anaya, thank you.

3 A. Uh-huh.

4 Q. And -- and that was -- what was told to
5 you by Ann Anaya was consistent with what we looked at
6 in that -- that Rx integrity document.

7 It talked about the different things that
8 could be considered as far as clinical needs and
9 population and those types of things, is that right?

10 A. That sounds right.

11 Q. Okay. And that was that -- that was
12 attached to that 2013 policy about the questionable
13 orders, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I'd have to check, I don't remember even
17 that long ago, but...

18 BY MR. GADDY:

19 Q. What I'm -- what I'm getting at, were you
20 told anything back in 2006, was this conversation with
21 Ann Anaya back in 2006?

22 A. I -- I don't remember. That -- I mean,
23 that's been years ago. I just don't remember.

24 Q. Did Ann Anaya tell you anything about

1 grouping customers into groups of 25 and coming up
2 with an average order and multiplying by three?

3 A. No, that's the first I've read that or
4 heard of that.

5 Q. Okay. But you recognize here in this
6 letter from the DEA that the DEA is saying that's the
7 system that Walgreens had in place and that that
8 system was in -- insufficient?

9 A. They believe it's insufficient it says,
10 yes.

11 Q. I'll show you what I'll mark as Exhibit
12 No. 14. This is P-WAG 2421.

13 (WHEREUPON, a certain document was
14 marked Walgreens - Bish Deposition
15 Exhibit No. 14, for identification,
16 as of 02/01/2019.)

17 BY MR. GADDY:

18 Q. And do you see this is a Walgreens
19 memorandum?

20 A. Yes.

21 Q. And it looks like this is about ten days
22 after that DEA letter came in after the DEA had
23 inspected Perrysburg, right?

24 A. Right.

1 Q. Okay. And it's -- the "re" line is: "DEA
2 audit preliminary response."

3 Do you see that?

4 A. Yes.

5 Q. If you go back to the prior document,
6 there is one last thing I should have showed you, and
7 look at the third page, the second-to-last paragraph,
8 it starts: "Please advise."

9 A. Yes.

10 Q. It says:

11 "Please advise this office in writing
12 within 30 days of the action taken or planned to
13 correct these violations."

14 Do you see that?

15 A. Yes.

16 Q. So the DEA, not only is they -- are they
17 telling Walgreens that there is a problem, but they
18 want a response from Walgreens, correct?

19 A. It appears they want them to advise them
20 of, you know, the action they are going to take, yes.

21 Q. And -- and even though we just looked at
22 Item No. 1 as far as the issues that the DEA noted, if
23 you look at this letter, you see there is -- it looks
24 like ten separate issues that the DEA identified as

1 far as deficiencies within the Perrysburg distribution
2 center?

3 MS. SWIFT: Object to the form, foundation.

4 BY THE WITNESS:

5 A. But they aren't all C-II. They are
6 talking about List 1 chemicals and...

7 BY MR. GADDY:

8 Q. Absolutely.

9 A. Oh.

10 Q. And I don't -- I don't -- I didn't mean to
11 limit my question to C-IIIs.

12 A. Okay. All right.

13 Q. Did you agree with me, there's ten
14 separate issues that they -- that they identified?

15 MS. SWIFT: Object to the form, foundation.

16 BY THE WITNESS:

17 A. I'd have to read each one. I mean, I am
18 assume -- I -- I don't know, is each point stating
19 there is something wrong or are they just stating -- I
20 don't -- I'd have to read it.

21 Do you want me to read it?

22 BY MR. GADDY:

23 Q. Well, you see there are ten numbered
24 paragraphs, right?

1 A. Yes, I do, uh-huh.

2 Q. And the first paragraph is the only one we
3 really looked at in detail and that was the one where
4 the DEA was saying that the -- the -- the formulation
5 for reporting suspicious orders was insufficient,
6 right?

7 A. Right.

8 Q. Okay. But then there is also different
9 paragraphs numbered 2 through 10, correct?

10 A. Yes.

11 Q. So let's go back to, I think No. 14, which
12 is about -- a memo about ten days later, correct?

13 A. Yes.

14 Q. And it says, the "re" line is: "DEA audit
15 preliminary response."

16 Do you see that?

17 A. Yes.

18 Q. And about the third paragraph down, the
19 heading is: "1301.74(b)," correct?

20 A. Correct.

21 Q. And if we read there in that paragraph, it
22 says:

23 "DEA feels that the suspic" -- "suspicious
24 order report is inadequate."

1 Do you see that?

2 A. Yes.

3 Q. Okay. And that's consistent with what the
4 DEA said in their letter, right?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. That's what the letter said, right, the
8 previous letter.

9 BY MR. GADDY:

10 Q. It said:

11 "They specifically did not like the DEA
12 factor and would like to know how we determine it.
13 They would like a better description of the formula
14 used to determine a suspicious order."

15 Do you see that?

16 A. Yes.

17 Q. It says:

18 "The explanation of the formula is:" It
19 says: "All stores are put into groups of 25 based on
20 the amount of daily prescriptions filled. The average
21 is then taken from the orders to the DC on each group
22 of 25. The result is average order times DEA factor
23 equal trigger."

24 Do you see that?

1 A. Yes.

2 Q. It goes on to say:

3 "They said the formula should be based on
4 (size, pattern, and frequency)."

5 Correct?

6 A. Correct.

7 Q. At any point in time during this 2006
8 timeframe, did anybody come to you as the -- as the
9 C-II function manager --

10 A. Uh-huh.

11 Q. -- and ask you for any input on developing
12 any type of suspicious order reporting system?

13 MS. SWIFT: Objection; calls for speculation.

14 BY THE WITNESS:

15 A. Not that I recall.

16 BY MR. GADDY:

17 Q. Okay. Did anybody come to you as the --
18 as the C-II function manager, the person in charge of
19 Schedule II controlled substances at the Perrysburg
20 distribution center, and tell you that the DEA felt
21 you were doing an inadequate job of reporting
22 suspicious orders, and not you personally but
23 Walgreens?

24 A. Right.

1 Not that I recall.

2 Q. At any point in time during this 2006
3 period did anybody from Walgreens come to you and say
4 we need to press pause on shipping Schedule II drugs
5 out the door, the DEA has told us our system is
6 insufficient or inadequate, we need to get -- figure
7 this out before we continue to distribute.

8 Do you recall that ever happening?

9 A. No.

10 Q. At any point in time while you were the
11 C-II function manager at the Perrysburg distribution
12 center from -- from whenever C-IIs started going out
13 the door in '05 or '06 through whenever they stopped
14 in 2013-ish, did you ever have a -- a whole wholesale
15 shutdown and stoppage of distributing Schedule II
16 controlled substances because of concerns expressed by
17 the DEA regarding suspicious order monitoring?

18 MS. SWIFT: Object to form.

19 BY THE WITNESS:

20 A. Not that I recall.

21 BY MR. GADDY:

22 Q. Okay. You see in the subject line of this
23 memo that it's talking about that the -- the DEA audit
24 actually took place back in March?

1 A. Yes.

2 Q. Okay. Let me show you what I'll mark as
3 Exhibit No. 15. This is P-WAG 2783.

4 (WHEREUPON, a certain document was
5 marked Walgreens - Bish Deposition
6 Exhibit No. 15, for identification,
7 as of 02/01/2019.)

8 BY MR. GADDY:

9 Q. And, again, using the Bates number on the
10 bottom right-hand corner, if you could turn to the
11 Bates ending 772.

12 Are you with me?

13 A. Yes.

14 Q. And I am -- I am on Bates No. 772.

15 MR. GADDY: I'm waiting on him to find the page.

16 BY THE WITNESS:

17 A. Oh.

18 MS. SWIFT: That's fine.

19 BY THE WITNESS:

20 A. I'm like, what are we waiting... Okay.

21 BY MR. GADDY:

22 Q. Okay. All right. I think we are here
23 now.

24 So you see this is an e-mail from Justin

1 Joseph --

2 A. Yes.

3 Q. -- at the top?

4 A. Yes.

5 Q. And the subject, again, is this: "DEA
6 audit recap from March."

7 Do you see that?

8 A. Yes.

9 Q. And here he says:

10 "Today's discussion centered around
11 suspicious drug report and PSE items. Highlighted in
12 red are the items that I am struggling to come up with
13 an answer for."

14 Do you see that?

15 A. Yes.

16 Q. Okay. And Justin Joseph was who?

17 A. Well, he is now the building manager.

18 Back then he was probably -- he may have been the
19 admin manager, administration manager back then. I'm
20 not sure what his title was during 2006.

21 Q. Okay. Well, it looks like he sent this
22 e-mail to -- to Todd Polarolo?

23 A. Um-hum.

24 Q. Who we just talked about, Sue Thoss, Steve

1 Kneller, some of these other folks that we've
2 mentioned before, correct?

3 A. Correct.

4 Q. And the first topic that he is asking
5 questions about is the suspicious drug report. He
6 says:

7 "Where does the DEA factor come from?"

8 Do you see that?

9 A. Yes.

10 Q. And the response says:

11 "This is our determination of a suspicious
12 order."

13 Do you see that?

14 A. Yes.

15 Q. Okay. Prior to -- to looking at this
16 document, did you know that -- that Walgreens had --
17 had independently come up with some DEA factor to
18 determine a suspicious order?

19 MS. SWIFT: Object to the assume -- object to
20 the form of the question, assumes facts not in
21 evidence.

22 BY THE WITNESS:

23 A. I -- I did not know about this -- this --
24 what we read prior to this what -- how they determined

1 that, no, I did not know that existed.

2 BY MR. GADDY:

3 Q. Okay. And do you know who that Kalani
4 Reelitz, or if that's a person or -- or what that
5 means?

6 A. No, I don't recall that name.

7 Q. Okay. The next question says:

8 "How do we get the average?"

9 Do you see that?

10 A. Yes.

11 Q. And it says:

12 "This is by DC and takes the number of
13 daily scripts filled by a store, then groups stores in
14 groups of 25. Then there is an average taken of the
15 orders by item."

16 Do you see that?

17 A. Yes.

18 Q. And it looks like the same individual
19 provided that update as well?

20 A. That's what it looks like, yeah.

21 Q. And -- and you recognize that as
22 describing the same system that ultimately the DEA
23 described in its letter and says was insufficient?

24 MS. SWIFT: Objection, foundation.

1 BY THE WITNESS:

2 A. It sounds like the same, yeah.

3 BY MR. GADDY:

4 Q. Do you know if you have ever looked at one
5 of those suspicious order reports?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. I have seen a printed one.

9 BY MR. GADDY:

10 Q. I'll show you what I'll mark as
11 Exhibit 16, which is P-WAG 11.

12 (WHEREUPON, a certain document was
13 marked Walgreens - Bish Deposition
14 Exhibit No. 16, for identification,
15 as of 02/01/2019.)

16 BY MR. GADDY:

17 Q. And do you see this is a e-mail from
18 Eric Stahmann?

19 Do you see that?

20 A. Yes.

21 Q. And I think you told me you do not know
22 who that is, correct?

23 A. No, I don't.

24 Q. Okay. And it looks like the e-mail is

1 dated in 2017 but the attachment has a August 2010
2 date on it.

3 Do you see that?

4 A. Oh, yes, um-hum.

5 Q. And the subject is: "CD orders"?

6 A. The subject is CD orders? I don't see
7 that, but...

8 Q. Oh, I'm sorry. The subject line of the
9 e-mail?

10 A. Oh, yes, um-hum.

11 Q. Okay. And were you aware that at -- that
12 there was a period of time in which the suspicious
13 order reports was delivered to the distribution center
14 on actually, like, a CD-ROM?

15 A. I only remember seeing it printed,
16 although at some point I would have expected it to go
17 to a disk of some kind.

18 Q. Okay. Turn with me, if you would, please,
19 to Bates ending 441.

20 Are you with me?

21 A. Yes, um-hum.

22 Q. And this -- I don't know what size paper
23 this typically would print on, but because it's
24 probably not what we have in front of us, the

1 formatting is a little bit weird, but I'm going to
2 start at what I think is -- would be the top of a
3 page which is about two-thirds of the way down the
4 page.

5 On the left-hand side it says date --

6 A. Oh.

7 Q. -- and then it says 8/2/10.

8 Do you see where I am?

9 A. Eight -- 441, correct?

10 Q. Yes, ma'am, and you can look on that
11 screen right in front of you and where he is
12 highlighting it, and that might help you get oriented.

13 A. Oh, okay.

14 Oh, yeah, yeah, okay.

15 Q. Okay. And do you see right there kind of
16 above that but in the middle it says -- it has got a
17 page number there, 11655?

18 A. Yes.

19 Q. And these reports that you saw, were they
20 pretty thick?

21 A. I would say that thick.

22 Q. Okay. About an inch?

23 A. Yeah.

24 Q. And you see that it -- it's got the date

1 8/2/10 and then to the right of that it says:

2 "Suspicious control drug orders for the month of
3 July 2010."

4 Do you see that?

5 A. Yes.

6 Q. Okay. And below that it has a sales
7 district, a Walgreens store number, and then an
8 address.

9 And this particular store just happens to
10 be in Cleveland, Ohio, correct?

11 A. Correct.

12 Q. When you said that you had seen the hard
13 copy report before, does this look vaguely familiar to
14 you, this format?

15 A. Well, again, it was more -- it was longer,
16 obviously.

17 Q. Okay.

18 A. You know, it was just regular printer
19 paper, but, yeah, this format looks familiar.

20 Q. Okay. And for what purpose did you look
21 at one of these reports previously?

22 A. To hand it to the SAIL coordinator.
23 That's what I did with it.

24 Q. Okay. Did you -- would you ever have read

1 it?

2 A. No, I never went through one page by page.

3 Q. Okay. Would you have ever had made
4 notations about stores that are listed on this report
5 as having suspicious control drug orders?

6 MS. SWIFT: Object to the form, vague.

7 BY THE WITNESS:

8 A. No.

9 BY MR. GADDY:

10 Q. Would you have -- ever have given this
11 report to anybody other than the C-II SAIL
12 coordinator?

13 A. I don't believe so, no. That's who I
14 would have given it to.

15 Q. And other than her filing the report, you
16 don't know that she did anything else with it?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. That's correct.

20 BY MR. GADDY:

21 Q. Okay. All right. So let's see if we can
22 figure out what these -- what these are saying.

23 So, under the address you see there is the
24 two horizontal lines?

1 A. Yes.

2 Q. And then below there it says -- it has got
3 a Walgreens item number and it lists on the left-hand
4 side a -- a DNC number.

5 Do you see that?

6 A. Um-hum.

7 Q. And every drug, every control drug has a
8 DNC number, correct?

9 A. It is an NDC, but correct, uh-huh.

10 Q. Did I say something different?

11 A. I thought you said "DNC."

12 Q. Oh, thank you.

13 A. NDC.

14 Q. NDC.

15 A. Yeah.

16 Q. So every control drug has an NDC number,
17 correct?

18 A. Correct.

19 Q. That's unique to that particular drug?

20 A. Correct.

21 Q. Okay. And then to the right of that --
22 that NDC number it gives a description of the drug and
23 this particular drug looks like it is a hydrocodone
24 combination product, correct?

1 A. Correct.

2 Q. Just above the description, do you
3 recognize this formula that we've just read in some of
4 these -- these other doc -- other documents of average
5 order times DEA factor equals trigger?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. Yes, it looks like that's what they were
9 talking about before, although I don't have it in
10 front of me again, but...

11 Which of these have the actual formula on
12 it?

13 BY MR. GADDY:

14 Q. I think it was the --

15 A. Was it this one?

16 Q. -- Walgreens response. I think it was the
17 memo, the Walgreens memo in the paragraph that started
18 1301.74(b).

19 A. Oh. Oh, yeah, there it is. "Average
20 order times DEA factor equals trigger." Okay. Yeah.

21 Q. That's what we see here, right?

22 A. Yeah.

23 MS. SWIFT: Object to the form, mischaracterizes
24 the document.

1 BY MR. GADDY:

2 Q. And then below the description of the
3 drug, you see that it -- it has some numbers that look
4 like they follow that formula, it has an average order
5 of five, a DEA factor of three, and then if you were
6 to multiply those you would get the trigger of 15.

7 Is that math correct?

8 MS. SWIFT: Objection; lacks foundation.

9 BY THE WITNESS:

10 A. It appears that's what they've done, yes.

11 BY MR. GADDY:

12 Q. Okay. And then if you flip the page, you
13 see the -- it looks like you have a chart here on this
14 left -- on this next page with three columns, correct?

15 A. Yes.

16 Q. One for the date ordered, the second for
17 the quantity, and the third for the number of the
18 distribution center, correct?

19 A. Correct.

20 Q. Okay. And it looks like, if we -- I think
21 we were looking -- I think this report was for the
22 suspicious control drug orders for the month of July.

23 Do you recall that's what it said on the
24 previous page at the bottom?

1 A. Right.

2 MS. SWIFT: Objection; lacks foundation.

3 BY MR. GADDY:

4 Q. But what we are looking at here is it is
5 listing the orders for June and then below there the
6 orders for May.

7 Do you see that?

8 MS. SWIFT: Objection; lacks foundation.

9 BY THE WITNESS:

10 A. I see the orders listed for June and what
11 appear to be orders for May.

12 BY MR. GADDY:

13 Q. Okay. And then let's jump to the far
14 right-hand column, and that says "DC."

15 Do you see that?

16 A. Yes.

17 Q. And there is the number 11 for all of
18 these orders for this particular hydrocodone
19 combination product.

20 What does 11 mean to you?

21 A. That's our -- well, 11 is the Perrysburg
22 DC, but the C-II DC was 13.

23 Q. Okay. So that would tell you these were
24 not C-IIIs, this hydrocodone combination product,

1 correct?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. Well, I can't really say that because I
5 don't know that they would define it down that fine.
6 I mean, DC 13 was part of DC 11.

7 BY MR. GADDY:

8 Q. Okay.

9 A. So I don't...

10 Q. Well, let -- let's move on and we'll get
11 some clarity on that in just a minute --

12 A. Okay.

13 Q. -- I think.

14 Okay. So anyway, it looks like if you
15 look at the quantities ordered during June for this
16 particular pharmacy in Cleveland starting at the
17 bottom, they ordered three on the -- three bottles on
18 the 2nd, two bottles on the 4th, three bottles on the
19 9th and all of the way up through the 30th.

20 Do you see that?

21 A. Yes.

22 Q. And if you look down below there, it looks
23 like they've totaled the number of bottles ordered.

24 Do you see that, and added them up to be

1 26?

2 A. That's what it looks like, yeah.

3 Q. Okay. And then it has a percentage listed
4 there, 173.

5 Do you see that?

6 A. Yes.

7 Q. And if you go back to the formula at the
8 bottom of the previous page saying that the trigger
9 was 15, and this particular store has ordered
10 26 bottles during the month of June, I'm not asking
11 you to get out a calculator, but does it look that --
12 that there was a product -- that the trigger was
13 exceeded so that the amount ordered was approximately
14 173 percent of the trigger?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I couldn't say that. I don't -- I don't
18 really know what the hundred -- it doesn't really say
19 what the 173 percent is.

20 BY MR. GADDY:

21 Q. Okay. Well --

22 A. So...

23 Q. 100 percent of 15 is 15, right?

24 A. Right.

1 Q. Okay.

2 A. Oh, so you do want me to do the math?

3 MS. SWIFT: You just said you didn't want her to
4 do the math.

5 BY MR. GADDY:

6 Q. I said I don't want you to get out a
7 calculator to do the math.

8 A. Oh, okay.

9 MS. SWIFT: You don't have to do math in your
10 head.

11 BY MR. GADDY:

12 Q. You agree that 100 percent of 15 is 15?

13 A. Yes.

14 Q. You agree that 200 percent of 15 would be
15 30?

16 A. Yes.

17 Q. Okay. And what the total no -- order
18 entered here is 26, correct?

19 A. Correct.

20 Q. And they indicate that it is not
21 200 percent, but it is 173 percent.

22 Do you see that?

23 A. Yes, I do.

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. I do see that, yeah.

3 BY MR. GADDY:

4 Q. Okay. So my question to you is, were you
5 ever asked to -- at the distribution center to halt or
6 hold or prevent shipment of any orders of -- for
7 controlled substances because a store had exceeded
8 this trigger amount?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Not that I recall, uh-uh.

12 BY MR. GADDY:

13 Q. Okay.

14 Were you ever -- and if you see that --
15 that here for this particular store for the month of
16 June it is giving the orders that were placed
17 throughout the month, correct?

18 A. Throughout what?

19 MS. SWIFT: Objection to the form, foundation.

20 BY MR. GADDY:

21 Q. Throughout the month of June.

22 MS. SWIFT: Same objection.

23 BY MR. GADDY:

24 Q. Do you see that?

1 A. Yes.

2 Q. June of 2010, do you see that?

3 A. I see those dates, yeah.

4 Q. And I think you've already told us that
5 orders come in every day, orders get filled every day,
6 correct?

7 A. Correct.

8 Q. Okay. When -- were you ever told at the
9 end of the month, do you ever recall being told by
10 anybody at Walgreens towards the end of the month,
11 Hey, this particular store has already hit their DEA
12 limit, this order, for example, of five -- for five
13 bottles coming in on June 30th, don't fill that order,
14 this store has already hit their limit.

15 Do you ever recall ever being told that by
16 anybody at Walgreens?

17 MS. SWIFT: Objection; assumes facts not in
18 evidence.

19 BY THE WITNESS:

20 A. No, I don't recall ever being told that.

21 BY MR. GADDY:

22 Q. Okay. If you look for this same store, it
23 also gives the orders from the month of May.

24 Do you see that below there?

1 MS. SWIFT: Objection; lacks foundation.

2 BY THE WITNESS:

3 A. I see the May dates, yes.

4 BY MR. GADDY:

5 Q. Okay. And it has orders spanning from
6 May 3rd, 2010 through May 26th, 2010.

7 Do you see that?

8 A. I see those dates, yeah.

9 Q. And it totals those orders as 16, correct?

10 MS. SWIFT: Object to the form.

11 BY THE WITNESS:

12 A. Yes.

13 BY MR. GADDY:

14 Q. And then it gives a percentage that would
15 be fairly consistent of that being barely over the
16 15-bottle threshold, correct?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. If that's what that represents, which it
20 apparently does.

21 BY MR. GADDY:

22 Q. Okay. And, again, you don't recall any
23 situations for this that would have been similar with
24 this scenario here where this May 26th, 2010 order

1 comes in for two bottles and you're told, Ms. Bish, as
2 the C-II function manager, you can't allow that order
3 to be filled because those two bottles are going to
4 push them over this 15-bottle threshold for this
5 particular drug?

6 A. That's correct, I don't recall ever being
7 told that.

8 Q. Okay. If we look down to the next entry,
9 do you see there is a NDC number and a description for
10 a new drug?

11 A. Yes.

12 Q. And that's oxycodone, right?

13 A. No. I see oxy APAP.

14 Q. Okay.

15 A. At the bottom of that same page?

16 Q. Oxycodone APAP?

17 A. Yes.

18 Q. Okay.

19 A. I'm sorry, yeah.

20 Q. And what is your understanding of what
21 that drug is?

22 A. It is a combination of oxycodone and I
23 forget the other -- the other drug that the APAP is
24 standing for, but anyhow, it is a combination.

1 Q. Okay. But it contains oxycodone?

2 A. Yes.

3 Q. Which is a Schedule II drug?

4 A. Correct.

5 Q. Okay.

6 A. It says "DC 13," so that must be what that
7 means.

8 Q. You knew where I was going there.

9 So this would be the distribution center
10 for the C-II facility at Perrysburg, correct?

11 A. Correct.

[REDACTED]

☐ ☐ ☐

[REDACTED]

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED] [REDACTED] [REDACTED]
■ [REDACTED]

6 Q. Okay. And -- and as we saw from one of
7 your earlier e-mails, it was common for some stores to
8 fill -- order and -- and for you to fill 80 to
9 100 bottles of Schedule II controlled substances on a
10 single order, correct?

11 MS. SWIFT: Object to the extent it
12 mischaracterizes the documents.

13 BY THE WITNESS:

14 A. There were -- but there were some store
15 orders that called for that many bottles, yeah.

16 BY MR. GADDY:

17 Q. Okay. And at no point in time did anybody
18 tell you that, Hey, of these 500 pill bottles of
19 oxycodone APAPs, the monthly trigger is 18 bottles.

20 Nobody ever gave you that information,
21 right?

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. No, because I thought, again, that was

1 being handled by a system -- the system and the
2 computer room combined. So we were not given trigger
3 numbers.

4 BY MR. GADDY:

5 Q. Okay. And I understand that you had your
6 own personal thoughts and understandings about what
7 may or may not have been happening in other places,
8 but nobody ever gave this trigger information to you,
9 is that correct?

10 A. That's correct.

11 Q. Okay. Tell me if I'm wrong, but I presume
12 that if somebody had told you, Hey, Ms. Bish, this
13 particular -- you know, these stores should never get
14 more than 18 bottles of this particular drug in a
15 month --

16 A. Uh-huh.

17 Q. -- because that's our trigger amount, you
18 would have put in place some type of mechanism to make
19 sure that that didn't happen?

20 A. Well, I would have had to have the
21 computer room do that because I visually couldn't have
22 done that, but, yeah, they would -- they would have
23 had to put something in place, but I -- I thought we
24 did have something in place.

1 Q. Okay. So you were never given information
2 or -- strike that.

3 So if you turn the page, do you see that
4 it -- at the start of the very bottom of the last
5 page, and then as we look we continue to see the
6 orders for the month of July that this particular
7 store placed for this particular oxycodone product.

8 Do you see that?

9 MS. SWIFT: Object to form.

10 BY THE WITNESS:

11 A. What page are you on, because I closed
12 mine?

13 BY MR. GADDY:

14 Q. I'm sorry. I started on 442 at the very
15 bottom, because that's where we left off.

16 A. Okay.

17 Q. And do you see there is the first entry
18 for July 29th and it has four bottles --

19 A. Right.

20 Q. -- filled from DC 13?

21 A. Yes.

22 Q. And if you flip the page, you see the rest
23 of the orders that were filled during the month of
24 July?

1 MS. SWIFT: Objection; lacks foundation.

2 BY THE WITNESS:

3 A. Well, I don't know if these orders filled.
4 Again, I know they were orders that were put in, I can
5 see that.

6 BY MR. GADDY:

7 Q. Okay. And it lists orders on July 8,
8 July 15 and July 22 all from DC 13, correct?

9 A. Correct.

10 Q. Okay. And then it totals the orders there
11 and it lists 25 orders and then it gives a percentage
12 that, again, I won't make you divide it yourself.

13 Do you see that?

14 A. Yes.

15 Q. Okay.

16 And, again, you were never given any
17 information that this particular store in Cleveland
18 was ordering bottles of oxycodone product that were
19 above their trigger and were listed on the suspicious
20 order report?

21 MS. SWIFT: Objection; foundation.

22 BY THE WITNESS:

23 A. No.

24 BY MR. GADDY:

1 Q. If you look at, for the month of June, do
2 you see that this store has orders listed totalling
3 39 bottles of this particular unit, which I believe
4 it -- I mean, did I get that right, that it was a
5 500-count bottle?

6 A. Yes.

7 Q. Okay.

8 A. That's correct.

9 Q. So in June there were orders placed by
10 this store for 39 500-count bottles of this oxycodone
11 product, correct?

12 MS. SWIFT: Objection -- objection; foundation.
13 The document speaks for itself.

14 BY THE WITNESS:

15 A. Correct, that's what it looks like, yes.

16 BY MR. GADDY:

17 Q. And -- and the percentage there is -- is
18 over 200 percent, correct?

19 A. Correct.

20 Q. And if you keep going down, it also has
21 the orders listed for the month of May.

22 Do you see that?

23 A. Yes.

24 Q. And it -- again, because of the formatting

1 it cuts out in the middle and then you have to go to
2 the bottom of the page to see where they total it.

3 Are you with me?

4 A. Um-hum, yes.

5 Q. And it totals there 22 orders, which again
6 is over 100 percent of the DEA trigger that Walgreens
7 itself had set, correct?

8 MS. SWIFT: Object to the form; mischaracterizes
9 the document.

10 BY THE WITNESS:

11 A. That's how -- that's what it says, that's
12 what the form says, yeah.

13 BY MR. GADDY:

14 Q. Okay. But, again, you were never asked
15 to -- to not ship any orders to any -- any particular
16 store because they showed up on that suspicious order
17 report?

18 A. That's correct.

19 Q. Okay. Do you know if anybody thought you
20 at the distribution center, or Lori, your SAIL
21 coordinator, or Brook, were looking at this suspicious
22 order report that was sent to you?

23 MS. SWIFT: Object to the form; foundation,
24 compound.

1 BY THE WITNESS:

2 A. Do I know if a -- do I know if other
3 people thought we were looking at it?

4 BY MR. GADDY:

5 Q. Yeah.

6 A. No, I don't know.

7 Q. I mean, you definitely had a copy of it,
8 right?

9 A. I saw one -- I've seen these come in.
10 They don't look exactly like that, but I've -- I've
11 seen one. I can't tell you how often they come in,
12 though.

13 Q. Okay. And as far as you know, all that --
14 all that Lori or -- or Brook did with these reports
15 when they got them was file them?

16 A. Correct.

17 Q. Do you recall these reports coming in,
18 these suspicious order reports coming in during the
19 entire time period that you were the C-II function
20 manager?

21 MS. SWIFT: Objection; calls for speculation.

22 BY THE WITNESS:

23 A. I don't recall seeing them but more than
24 once or twice, but that doesn't mean they weren't

1 coming in, you know, so.

2 BY MR. GADDY:

3 Q. Okay. Well, and -- and I'm -- I'm asking
4 you this question because, you know, we -- when we
5 looked at your personnel file, you're -- you know, I
6 think you're -- they said your knowledge of the C-II
7 systems was -- was second to none.

8 A. Uh-huh.

9 Q. So do you recall during what time period
10 these -- these reports were being shipped to the
11 distribution center?

12 MS. SWIFT: Object to the form; asked and
13 answered.

14 BY THE WITNESS:

15 A. I don't recall that, no.

16 BY MR. GADDY:

17 Q. Do you know whether or not those reports
18 were sent to the DEA?

19 MS. SWIFT: Objection; foundation.

20 BY THE WITNESS:

21 A. No, I don't know that.

22 BY MR. GADDY:

23 Q. Do you ever recall the admin manager,
24 whether Tammy Hensley or Trumbull?

1 A. It is Hensley now. It was Trumbull.

2 Uh-huh.

3 Q. Okay. Do you ever recall her do -- saying
4 anything or doing anything with the suspicious order
5 reports?

6 MS. SWIFT: Objection; foundation.

7 BY THE WITNESS:

8 A. I don't -- I don't know what she did. I
9 mean, I don't know her job.

10 BY MR. GADDY:

11 Q. I'll show you what I'll mark as
12 Exhibit 17. It is P-WAG 2683.

13 (WHEREUPON, a certain document was
14 marked Walgreens - Bish Deposition
15 Exhibit No. 17, for identification,
16 as of 02/01/2019.)

17 BY MR. GADDY:

18 Q. Do you see this is a letter on U.S.
19 Department of Jus -- Justice DEA letterhead?

20 A. Yes.

21 Q. And the date of this letter is
22 December 27th, 2007.

23 Do you see that?

24 A. Yes.

1 Q. And do you see this letter is addressed to
2 Walgreens?

3 A. Yes.

4 Q. And it says: "Attention: C-II manager."
5 Do you see that?

6 A. Yes.

7 Q. And would that have been you?

8 A. Yes.

9 Q. Do you recall receiving this letter?

10 A. I don't recall receiving it, no. I'm sure
11 I did.

12 Q. Was it common for you to receive letters
13 from the DEA?

14 A. No.

15 Q. Okay. If you look, let's look at the back
16 page and the signature block, it looks like this
17 letter is from Joseph Rannazzisi, Deputy Assistant
18 Administrator, Office of Diversion Control.

19 Do you see that?

20 A. Yes.

21 Q. Do you know who Mr. Rannazzisi is?

22 A. I don't know him. I have heard his name.

23 Q. Okay. In what context have you heard his
24 name?

1 A. Just in conversation about the DEA between
2 the manager and the -- you know, I just don't know who
3 he is. I don't know if I have ever met him.

4 Q. Okay. And in what way have you heard
5 Mr. Rannazzisi discussed within Walgreens?

6 A. Oh, I can't remember. I don't remember
7 the specific conversations, but the name is familiar
8 to me.

9 Q. Okay. Okay. Let's look at the -- at the
10 letter.

11 It says:

12 "Dear Registrant: This letter is being
13 sent to every entity in the United States registered
14 with the DEA to manufacture or distribute controlled
15 substances."

16 Do you see that?

17 A. Yes.

18 Q. And -- and Walgreens wasn't manufacturing
19 any controlled substances, were they?

20 A. No.

21 Q. You were just distributing at this time,
22 right?

23 A. Correct.

24 Q. It says:

1 "The purpose of this letter is to
2 reiterate the responsibilities of controlled substance
3 manufacturers and distributors to inform DEA of
4 suspicious orders in accordance with 21 CFR
5 1301.74(b)."

6 Do you see that?

7 A. Yes.

8 Q. Okay. And -- and I'll represent to you
9 that's the par -- particular paragraph of that statute
10 or regulation that we looked at a little bit -- a
11 little bit ago.

12 Do you recall that?

13 MS. SWIFT: Object to the form.

14 BY THE WITNESS:

15 A. No.

16 BY MR. GADDY:

17 Q. Okay. No, that's fine. I think it's
18 listed again here. We don't have to go back and look
19 at it.

20 A. All right.

21 Q. Now that we've -- we've read this first
22 paragraph, do you recall receiving this letter?

23 A. No.

24 Q. Do you recall --

1 It says, in the next paragraph:

2 "In addition to, and not in lieu of, the
3 general requirement under 21 USC 823, that
4 manufacturers and distributors maintain effective
5 controls against diversion, DEA regulations require
6 all manufacturers and distributors to report
7 suspicious orders of controlled substances."

8 Do you see that?

9 A. Yes.

10 Q. When you received this letter in December
11 of 2007, did you already have that understanding?

12 MS. SWIFT: Objection; calls for speculation.

13 BY THE WITNESS:

14 A. The understanding of what? That...

15 BY MR. GADDY:

16 Q. That Walgreens had the obligation to
17 report suspicious orders of controlled substances.

18 MS. SWIFT: Object to the extent it calls for a
19 legal conclusion.

20 BY THE WITNESS:

21 A. I don't know that I had the understanding
22 it had to be reported. I didn't -- I -- my
23 understanding was that I wasn't to report it. If
24 someone else was, I don't know.

1 BY MR. GADDY:

2 Q. Okay. It says:

3 "Title 21 CFR 1301.74(b), specifically
4 requires that a registrant 'design and operate a
5 system to disclose to the registrant suspicious orders
6 of controlled substances.'"

7 Do you see that?

8 A. Yes.

9 Q. It says the registrant must design the
10 system, correct?

11 A. Yes.

12 Q. Okay. And do you recall that we looked at
13 some documents that talked about this formula that
14 Walgreens had in place, there was the one with the
15 groupings of the 25 stores.

16 Do you recall that?

17 A. Uh-huh.

18 Q. Okay. And then we just looked at these
19 other suspicious orders -- these suspicious order
20 reports that had the -- the -- the number times the
21 DEA factor equal the trigger, right?

22 A. Right.

23 Q. Okay.

24 It says:

1 "The regular" -- "regulation clearly
2 indicates that it is the sole responsibility of the
3 registrant to design" -- "to design and operate
4 such" -- "such a system. Accordingly, the DEA does
5 not approve or otherwise endorse any specific system
6 for reporting suspicious orders."

7 Do you see that?

8 A. Yes.

9 Q. When you got this letter, do you recall
10 whether or not you asked anybody what your system was
11 for identifying and reporting suspicious orders?

12 A. No, I don't recall if I asked anybody what
13 that was.

14 Q. It goes on to say:

15 "Past communications with DEA, whether
16 implicit or explicit, that could be construed as
17 approval of a particular system for reporting
18 suspicious orders should no longer be taken to mean
19 that the DEA approves a specific system."

20 Do you see that?

21 A. Yes.

22 Q. Okay.

23 Prior to looking at this letter just now,
24 did you have any understanding of whose responsibility

1 it was to -- to identify and report suspicious orders?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. Did I have any idea whose responsibility
5 it was to identify? Well, I knew it was Walgreens'
6 responsibility and I was under the understanding we
7 were identifying suspicious orders through that
8 systemic program and the computer room.

9 BY MR. GADDY:

10 Q. Okay. It goes on to say:

11 "The regulation also requires that the
12 registrant inform the local DEA division office of
13 suspicious orders when discovered by the registrant."

14 Do you see that?

15 A. Yes.

16 Q. And they've actually underlined "when
17 discovered"?

18 A. Correct.

19 Q. It says:

20 "Filing a monthly report of completed
21 transactions (such as, an excessive purchase report or
22 high unit purchases) does not meet the regulatory
23 requirements to report suspicious orders."

24 Do you see that?

1 A. Yes.

2 Q. What we just looked at were monthly
3 reports, correct?

4 MS. SWIFT: Objection; lacks foundation.

5 BY THE WITNESS:

6 A. They appear to be monthly orders placed,
7 yeah.

8 BY MR. GADDY:

9 Q. I think that if you -- I think the title
10 that we looked at on that first page was Suspicious
11 Order Report for July 2010.

12 Do you recall that?

13 A. Yes, I see it, um-hum.

14 Q. Okay. So that was a -- it was a report
15 for the entire month of July, correct?

16 A. Monthly.

17 MS. SWIFT: Objection; lacks foundation.

18 BY THE WITNESS:

19 A. That's what it appears to be, yeah.

20 BY MR. GADDY:

21 Q. Okay. But this says:

22 "Filing a monthly report of completed
23 transactions does not he meet the regulatory
24 requirement to report suspicious orders."

1 Do you see that?

2 A. Yes.

3 Q. Do you recall after getting this letter
4 from the DEA reaching out to anybody and telling them
5 that monthly reports were not sufficient according to
6 the DEA?

7 MS. SWIFT: Object to form.

8 BY THE WITNESS:

9 A. I don't recall doing that. Sorry.

10 MS. SWIFT: That's okay.

11 BY THE WITNESS:

12 A. I don't recall doing that, but just
13 knowing me, if I got something like this, I likely
14 would have called Barb again just to let her know or
15 sent her a copy and I would have filed it and asked if
16 I was to do something different or, you know.

17 BY MR. GADDY:

18 Q. Okay. Specifically on the issue of the
19 frequency of reporting, do you recall telling anybody
20 that once a month wasn't good enough?

21 A. No, I don't --

22 MS. SWIFT: Object to the form.

23 BY THE WITNESS:

24 A. -- I don't recall telling anybody that.

1 BY MR. GADDY:

2 Q. Do you recall anybody -- do you recall
3 raising that as -- as a -- as a point of concern and
4 anybody telling you that -- that it didn't apply to
5 Walgreens or that what Walgreens was doing was
6 sufficient?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No.

10 BY MR. GADDY:

11 Q. Do you have a specific memory of sending
12 this letter to anybody?

13 A. I don't have a specific memory. I'm just
14 saying that if I -- this looks like something today I
15 would do the same thing, I would call Barb and I would
16 say, What do I do with this? Give her a copy. That's
17 what I would have done then, I would think.

18 Q. Okay. You also said that you would have
19 filed it.

20 What does that mean?

21 A. Put it in a Pendaflex file folder and file
22 it, literally file it.

23 Q. Okay. In -- in a -- in a manila
24 folder-type thing?

1 A. Correct, yeah.

2 Q. So who would know that it was in there?

3 A. The SAIL coordinator.

4 Q. Do you remember giving this letter to Lori
5 or -- or Brook, the SAIL coordinators?

6 A. No, I don't remember who I gave it to.

7 Q. Do you remember having any conversations
8 with Brook or Lori, the SAIL coordinators, about the
9 concerns that the DEA was raising as it related to
10 suspicious order reporting generally?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. No, I don't recall having that
14 conversation.

15 BY MR. GADDY:

16 Q. Okay. It goes on to say in that third
17 paragraph, right in the middle, it says:

18 "Registrants are reminded that their
19 responsibility does not end merely with the filing of
20 a suspicious order report. Registrants must conduct
21 an independent analysis of suspicious orders prior to
22 completing a sale to determine whether the controlled
23 substances are likely to be diverted from legitimate
24 channels."

1 Do you see that?

2 A. Yes.

3 Q. Okay. Fair to say that -- that within the
4 distribution center, outside of this process of
5 calling for what you think are -- are order entry
6 errors, that there was no independent analysis being
7 performed prior to processing and completing an order?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Not that I did. Someone else there may
11 have done that. I -- I did not do that.

12 BY MR. GADDY:

13 Q. But as the person whose C-II knowledge is
14 second to none --

15 A. Uh-huh.

16 Q. -- in the distribution center --

17 A. Uh-huh.

18 Q. -- are you aware of any other independent
19 analysis of suspicious orders that was taking place
20 prior to the orders going out the door?

21 MS. SWIFT: Object to the form; asked and
22 answered throughout the day.

23 BY THE WITNESS:

24 A. No, I'm not aware of anyone doing that at

1 the distribution center.

2 BY MR. GADDY:

3 Q. There's a word used in that sentence that
4 we just read, "diverted," and then it says "from
5 legitimate channels."

6 Do you see that?

7 A. Yes.

8 Q. What does that mean to you?

9 A. To me that means orders that are likely to
10 be going places that are not pharmacies or Walgreens
11 pharmacies. That's what that would mean to me.

12 Q. Okay. Do you have any -- can you give me
13 examples of what -- of activity that would be
14 diversion?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Not really. I mean, it is just that when
18 it says "legitimate," to me legitimate means real,
19 authentic, that's where it's supposed to -- you know,
20 it is what it says it is. So that's, to me, what
21 legitimate means.

22 So what's your question again, an example
23 of an illegitimate, is that what you said?

24 BY MR. GADDY:

1 Q. An example of when controlled substances
2 would be diverted?

3 MS. SWIFT: Object to the form, vague.

4 BY MR. GADDY:

5 Q. For example, if you put a bunch of C-IIIs
6 on a truck and somebody robs the truck -- -

7 A. Uh-huh.

8 Q. -- would you agree that that would be an
9 ex -- an example of diversion?

10 A. It would be an example, yeah, I would say
11 it would be.

12 Q. Okay. Are you familiar with the phrase
13 "doctor shopping"?

14 A. The phrase of what?

15 Q. "Doctor shopping."

16 A. No.

17 Q. Okay. Are you familiar with the phrase
18 "pill mill"?

19 A. Yes.

20 Q. Okay. What does that mean to you?

21 A. To me that means a pharmacy that's not a
22 chain but some individual pharmacy would -- that is
23 not being discriminant or doing due diligence when
24 they fill prescriptions.

1 Q. Okay. And do you agree that that could
2 lead to diversion?

3 MS. SWIFT: Object to the form, vague.

4 BY THE WITNESS:

5 A. It would seem so. I don't know enough
6 about it to really say for sure, but it would
7 certainly seem so.

8 BY MR. GADDY:

9 Q. If you flip to the next page and look at
10 the top of the page, it says:

11 "Registrants that rely on rigid formulas
12 to define whether an order is suspicious may be
13 failing to detect suspicious orders."

14 Do you see that?

15 A. Yes.

16 Q. It says:

17 "For example, a system that identifies
18 orders as suspicious only if the total amount of a
19 controlled substance" -- "substance ordered during one
20 month exceeds the amount ordered the previous month by
21 a certain percentage or more is insufficient. This
22 system fails to identify orders placed by a pharmacy
23 if the pharmacy is placing unusually large orders from
24 the beginning of its relationship with the

1 distributor."

2 Do you see that?

3 A. Yes.

4 Q. When you received this letter, what did
5 you understand that portion to mean?

6 MS. SWIFT: Object to form, calls for
7 speculation.

8 BY THE WITNESS:

9 A. I can't really say what I -- what I
10 thought it meant way back then. I don't know.

11 BY MR. GADDY:

12 Q. Okay. When you read this paragraph here
13 about the -- the formulas that the DEA was looking for
14 for a -- for -- for folks like Walgreens to design to
15 identify and report suspicious orders, did you do any
16 follow-up with, whether it's Barb or corporate or
17 whoever, to ask about what system you all had in place
18 and ask whether or not it was a rigid formula, like
19 they are saying is bad, or whether or not it was
20 something different?

21 MS. SWIFT: Object to form; compound, calls for
22 speculation.

23 BY THE WITNESS:

24 A. No, I don't recall doing any follow-up

1 with them, because I thought we had a system in place.

2 BY MR. GADDY:

3 Q. Okay. Fair enough.

4 If you go down to the next paragraph, it
5 says:

6 "When re" -- "when reporting an order as
7 suspicious, registrants must be clear in their
8 communications with the DEA that the registrant is
9 actually characterizing an order as suspicious.
10 Daily, weekly, or monthly reports submitted by a
11 registrant indicating excessive purchases do not
12 comply with the requirement to report suspicious
13 orders, even if the registrant calls such reports
14 suspicious order reports."

15 Do you see that?

16 A. Yes.

17 Q. That report that we just looked at is what
18 Walgreens called, I think it said "suspicious order
19 reports," right?

20 A. That's what it said, yeah.

21 Q. Okay. And it was a -- it was a, I think
22 we just established, a monthly report, right?

23 MS. SWIFT: Objection; lacks foundation.

24 BY THE WITNESS:

1 A. It appeared to be.

2 BY MR. GADDY:

3 Q. Okay. When you saw -- when you received
4 this letter from Joseph Rannazzisi with the DEA and he
5 is talking about some of the factors that should be
6 considered in reporting suspicious orders, did you go
7 and grab the latest copy of the suspicious order
8 report that you had received in-house to look and see
9 whether or not it was a monthly report, whether it was
10 just showing excessive purchases, or -- or any of
11 these things that are being talked about here?

12 A. Not that I recall.

13 Q. Okay. Did you direct your SAIL
14 coordinators, whether it was Brook or Lori or Chad at
15 the time that you received this -- this letter --

16 A. Uh-huh.

17 Q. -- and ask them to take the letter and --
18 and -- and analyze the letter versus the suspicious
19 order report that you received there in-house and ask
20 them to see whether or not the suspicious order report
21 was in compliance with the direction you are getting
22 from the DEA?

23 A. Yeah, I can't remember back that far. So
24 I'd have to say again I -- I don't recall.

1 Q. Do you recall whether or not you advised
2 up the chain, whether it was Barb or -- or somebody
3 else in -- in corporate, that, Hey, we get this
4 suspicious order report, here I just got a letter from
5 the DEA that I think you told us doesn't happen very
6 often, right?

7 A. Right.

8 Q. I mean, it is a rare occasion for you to
9 get a -- get a letter, especially from the deputy
10 assistant administrator of -- of the Office of
11 Diversion Control at DEA, right?

12 A. Well, it was just unusual to get a letter
13 from the DEA period --

14 Q. Right.

15 A. -- no matter who it is from.

16 Q. You agree it is something that -- that you
17 would definitely have take -- taken notice of?

18 A. Um-hum.

19 Q. Okay. Something that you would have
20 wanted to take seriously, right?

21 A. Right.

22 Q. Okay. You don't have any memory of -- of
23 you comparing the letter versus the suspicious order
24 report or asking your SAIL coordinators to or asking

1 anybody up the chain, such as Barb Martin or -- or
2 anybody else to do that, is that fair?

3 A. What's fair is all I did was -- if I --
4 and I'm, again, not certain of this, but I would have
5 thought I would have sent this to Barb, a copy of it
6 to Barb and filed one here in the building. I don't
7 recall having a SAIL coordinator take out a suspicious
8 drug report and compare it line to line. You know, I
9 don't recall doing that, no.

10 Q. Okay. Other than maybe sending it to Barb
11 and putting it in a file, do you recall any action
12 whatsoever that you took or that you directed to be
13 taken in response to this letter?

14 A. No.

15 MS. SWIFT: Objection; asked and answered.

16 BY MR. GADDY:

17 Q. It then goes on to say:

18 "Lastly, registrants that routinely report
19 suspicious orders, yet fill these orders without first
20 determining that order is not being diverted into
21 other than legitimate medical, scientific, and
22 industrial channels, may be failing to maintain
23 effective controls against diversion."

24 Do you see that?

1 A. Yes.

2 Q. What do you understand that to mean?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. I understand that to mean what it says.

6 BY MR. GADDY:

7 Q. That you have to -- that if you get a
8 suspicious order --

9 MS. SWIFT: Were you finished with your ans --
10 answer?

11 THE WITNESS: Yeah.

12 MS. SWIFT: Okay.

13 BY THE WITNESS:

14 A. Okay, so I guess what -- what I'm reading
15 this to say, it says:

16 "Registrants that" -- "Registrants that
17 routinely report suspicious orders, yet fill these
18 orders without first determining that order is not
19 being diverted."

20 But our orders always went to Walgreens
21 drugstores with registered DEA numbers, so would that
22 be -- that doesn't mean it was sent to Joe's pharmacy
23 on the corner, you know what I mean?

24 BY MR. GADDY:

1 Q. Okay.

2 A. So isn't that answering that or not?

3 Q. Well -- well, let me ask you a couple of
4 questions about that.

5 A. Okay.

6 Q. Is it your assumption that if your orders
7 are going to Walgreens stores, that they can never be
8 suspicious?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Never be suspicious to whom, I mean?
12 What -- I -- I don't understand what you are asking me
13 for.

14 BY MR. GADDY:

15 Q. Okay. Do you understand that sentence to
16 be saying that if you report the orders as
17 suspicious --

18 A. Uh-huh.

19 Q. -- prior to filling them, you actually
20 have to do some due diligence and clear the orders to
21 make sure you know that they are not being diverted?

22 MS. SWIFT: Object to the form; calls for a
23 legal conclusion.

24 BY THE WITNESS:

1 A. Well, I know -- I knew that we had to,
2 again, call on orders that seemed suspicious, but I
3 don't think that's what you are asking me, is it?

4 BY MR. GADDY:

5 Q. No, ma'am.

6 A. I'm sorry.

7 Q. I think --

8 A. I'm dense, but...

9 Q. And -- and let me try and be as clear as
10 possible.

11 A. Okay.

12 Q. And I don't always do a good job of that,
13 so tell me if it is still not clear.

14 I think we've established that on a
15 monthly basis you received a suspicious order report
16 into the distribution center and that was the
17 responsibility of the SAIL coordinator, correct?

18 A. Correct.

19 Q. Okay. I think we've also established that
20 there were never any time periods in which you were
21 asked to hold orders, correct?

22 A. Correct.

23 Q. Okay. Do you understand this paragraph to
24 be saying that prior to filling a suspicious order

1 that's reported: "Registrants that routinely report
2 suspicious orders, yet fill these orders without first
3 determining the order is not being diverted," do you
4 understanding that -- understand that sentence is to
5 be saying you have to do some type of due diligence to
6 clear the order prior to filling it?

7 MS. SWIFT: Object to the form; calls for a
8 legal conclusion.

9 BY THE WITNESS:

10 A. No, actually, I'm understanding that to
11 say that we have to make sure the order is going to
12 one -- our -- one of our drugstores and not being
13 diverted into other legitimate, blah, blah, blah.
14 That's how I understand it.

15 BY MR. GADDY:

16 Q. So your interpretation of that sentence is
17 as long as the order is going to a Walgreens store
18 that it's okay?

19 MS. SWIFT: Object to the form, calls for a
20 legal conclusion.

21 BY THE WITNESS:

22 A. Well, as long as it's -- it would have
23 been checked before it ever got shipped out as far as
24 suspicious quantities by the methods I've already

1 talked about, you know what I mean, by the computer
2 room's query, the systemic issue of the sys -- the
3 system trying to, you know, mark down items that are
4 too high and the pickers bringing things to me that
5 were too high or seemed too high.

6 BY MR. GADDY:

7 Q. Okay. I think I got confused myself.

8 MS. SWIFT: Well, that was pretty clear.

9 BY MR. GADDY:

10 Q. When you say it would have been checked
11 before it was shipped out, you are referring back to
12 this conversation that you had at some point in time
13 with Ann Anaya?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. I'm referring back to the three -- the
17 three things we already talked about, which was the
18 computer room running whatever query they were
19 running, the system automatically not letting orders
20 drop if they were too high, and the pickers -- and/or
21 the pickers coming to me if they saw something that
22 seemed way out of place for quantity.

23 BY MR. GADDY:

24 Q. Do you have any understanding whatsoever

1 of what the computer room was -- was doing or running
2 to screen these orders?

3 MS. SWIFT: Objection; asked and answered.

4 BY THE WITNESS:

5 A. I only know they were running a query.
6 That's about the extent of it.

7 BY MR. GADDY:

8 Q. Okay. So -- and then we've -- we've
9 talked ad nauseam about what the high -- the high
10 numbers that you would -- that would be reported to
11 you either by the computer room or the pickers,
12 correct?

13 A. Correct.

14 Q. Keeping this sentence in mind that --
15 where it says: "Registrants that routinely report
16 suspicious orders, yet fill these orders without first
17 determining that the order is not being diverted," are
18 you aware of anybody at the distribution center level
19 did -- that ever did any type of investigation or
20 analysis of any of the orders that came in other than
21 what you've talked to us about as far as the -- the
22 phone calls to the stores that you would make if there
23 was something eye popping that you thought might be an
24 error?

1 MS. SWIFT: Object to the form.

2 Do you mean also other than everything she
3 just said?

4 BY MR. GADDY:

5 Q. You can go ahead and answer.

6 A. Okay. Could you repeat it, because now
7 I'm lost.

8 Did it -- what did you say, it was the
9 first part of the question?

10 Q. So keeping this sentence in mind where it
11 says: "Registrants that routinely report suspicious
12 orders, yet fill these orders without first
13 determining that the order is not being diverted,"
14 okay?

15 A. Okay.

16 Q. What I'm asking you is if you are aware of
17 anything at the distribution center, any
18 investigation, any analysis, any type of -- of due
19 diligence or follow-up that anybody is doing outside
20 of what you've already told us about --

21 A. Talked about.

22 Q. -- as far as the orders that you believe
23 may be errors?

24 MS. SWIFT: Object to the form.

1 BY MR. GADDY:

2 Q. Are you aware of anything that anybody
3 else was doing?

4 MS. SWIFT: Asked and answered many times.

5 BY THE WITNESS:

6 A. Yeah, not that I'm aware of.

7 MS. SWIFT: Can I just ask how long we have been
8 going?

9 THE VIDEOGRAPHER: Just over four hours.

10 MS. SWIFT: No, I'm sorry. This last chunk.

11 THE VIDEOGRAPHER: Oh.

12 MS. SWIFT: It feels like it, but...

13 THE VIDEOGRAPHER: An hour and 18 minutes.

14 MS. SWIFT: I'll just note that it is lunchtime.

15 MR. GADDY: That's fine. We can go ahead and
16 break for lunch.

17 MS. SWIFT: Thanks, Jeff, I appreciate it.

18 THE VIDEOGRAPHER: Going off the record at
19 12:38.

20 (WHEREUPON, a recess was had
21 from 12:38 to 1:14 p.m.)

22 THE VIDEOGRAPHER: We are back on the record at
23 1:14.

24 BY MR. GADDY:

1 Q. Ms. Bish, I want to ask you one more thing
2 about this Rannazzisi letter and then we'll move on
3 from that.

4 If you would turn to the second page for
5 me, please, the second full paragraph on the -- on the
6 page, the second sentence that starts: "Daily,
7 weekly, monthly" on the right-hand side of the -- of
8 the paragraph.

9 A. Oh, um-hum.

10 Q. It says:

11 "Daily, weekly" -- the second paragraph,
12 second sentence, starts: "Daily, weekly, or monthly
13 reports submitted by registrant indicating excessive
14 purchases do not comply with the requirement to report
15 suspicious orders, even if the registrant calls such
16 report" -- "reports suspicious order reports."

17 Do you see that?

18 A. Yes.

19 Q. Okay. And you recall we've looked at one
20 of those Walgreens suspicious order reports earlier,
21 right?

22 A. We looked at one, yes.

23 Q. Okay. Do you recall -- I think you've
24 told us that you received this letter in December

1 of -- of 2007, that you know you would have filed it
2 and that you believe you may have sent it to Barb,
3 correct?

4 A. Correct.

5 Q. And that's Barb Martin?

6 A. Correct.

7 Q. After you received this letter in December
8 of 2007, do you recall there being any change in the
9 practice of Walgreens having these monthly suspicious
10 order reports?

11 MS. SWIFT: Objection; calls for speculation.

12 BY THE WITNESS:

13 A. The -- not that I noticed. The suspicious
14 monthly reports still came monthly, I mean...

15 BY MR. GADDY:

16 Q. Let me show you what I will mark as
17 Exhibit No. 18. This is P-WAG 240.

18 (WHEREUPON, a certain document was
19 marked Walgreens - Bish Deposition
20 Exhibit No. 18, for identification,
21 as of 02/01/2019.)

22 BY MR. GADDY:

23 Q. And I'm actually going to be at --

24 MR. GADDY: I think you are going to have the

1 document in reverse order. I am actually going to be
2 at Page No. 1, which is probably going to be the last
3 page of the document.

4 There you go.

5 BY MR. GADDY:

6 Q. And do you see, Ms. Bish, this is a
7 Walgreens document entitled "Internal Audit Report" at
8 the top?

9 A. Yes.

10 Q. And it has a date on it of December 22nd,
11 2008, correct?

12 A. Correct.

13 Q. That would be approximately a year after
14 you received this Rannazzisi letter, is that fair?

15 A. Correct, um-hum.

16 Q. Okay. And it says, the subject is: "DEA
17 compliance-Perrysburg distribution center."

18 Do you see that?

19 A. Yes.

20 Q. Do you recall ever seeing one of these
21 internal audit reports before?

22 A. No.

23 Q. And it has a "from" line and it lists four
24 names and next to all of them it says "internal

1 audit."

2 Do you see that?

3 A. Yes.

4 Q. The last person listed there is a
5 Yarbrough?

6 A. Yes.

7 Q. I think you've mentioned that name earlier
8 today?

9 A. Yes.

10 Q. Do you know Mr. Yarbrough's first name, or
11 Mrs. Yarbrough?

12 A. Well, seeing the "B" it kind of is jogging
13 my memory, it's Brian maybe.

14 Q. Okay.

15 A. Brian Yarbrough.

16 Q. Okay. And tell me what your interaction
17 with Brian has been?

18 A. I don't recall our interaction. The name
19 just rang a bell. So I -- I knew he was in internal
20 audit. I don't recall any of our interactions.

21 Q. Okay. Do you ever recall Brian or any --
22 anybody else that you knew of being from internal
23 audit being in the Perrysburg distribution center and
24 doing any type of activity that would have led to the

1 compilation of a report?

2 A. I don't recall if they -- if they came to
3 the DC and saw me, I don't recall talking to them.

4 Q. And in your role as the C-II function
5 manager, would it be fair to say that you have no
6 memory of Brian Yarbrough or anybody else in internal
7 audit coming and sitting down to talking -- talking
8 with you and asking you questions for the purposes of
9 performing an audit of the distribution center?

10 A. Yes, that would be correct.

11 Q. Okay. And it looks like this report was
12 sent to Steve Kneller, who at the time was the manager
13 of the Perrysburg distribution center.

14 Do you see that?

15 A. Yes.

16 Q. And also Dan Coughlin who it has as the
17 regional vice president.

18 Do you know Mr. Coughlin or who he is?

19 A. I've heard his name. I don't know him.

20 Q. Does he work out of the distribution
21 center?

22 A. No.

23 Q. Do you know where he works out of?

24 A. I assumed corporate office or home office.

1 Q. Okay. And that's Deerfield?

2 A. Yes.

3 Q. And -- and let's see, the conclusion is
4 there in the middle of the page in -- in the box,
5 correct?

6 A. Yes.

7 Q. It says:

8 "In our opinion, internal controls that
9 ensure compliance with DEA regulations at the
10 Perrysburg distribution center require improvement."

11 Do you see that?

12 A. Yes.

13 Q. During this timeframe, December 2008,
14 early 2009, do you re -- do you recall Mr. Kneller or
15 anybody else from -- from corporate or otherwise from
16 Walgreens coming and telling you that there were
17 improvements needed for the distribution center to
18 comply with DEA regulations?

19 A. No, I don't recall that.

20 Q. It says:

21 "In addition, some of these issues pertain
22 to all company distribution centers and should be
23 addressed to avoid potential DEA sanctions."

24 Do you see that?

1 A. Yes.

2 Q. Similar question, during this time period
3 did anybody from Walgreens ever come and tell you
4 that -- that there was the potential for DEA sanctions
5 if there were not improvements made to some of the
6 compliance issues at the distribution center?

7 A. No.

8 Q. Okay.

9 A. Not to my recollection.

10 Q. It says:

11 "Specifically, our review found four
12 issues previously cited in the DEA's May 2006
13 inspection report that are still open."

14 Do you see that?

15 A. Yes.

16 Q. And do you recall we looked at some of
17 that -- a little bit of that May report and that was
18 the one that said the suspicious order reporting was
19 insufficient.

20 Do you recall that?

21 A. Yes.

22 Q. It says:

23 "In addition, four issues noticed" --
24 "noted in our previous audit, which was July 2005,

1 remain un-remediated."

2 Do you see that?

3 A. Yes.

4 Q. And then it says:

5 "Areas requiring the greatest level of
6 improvement are as follows," and it breaks them into
7 two categories: One is DC wide and one is Perrysburg.

8 Do you see that?

9 A. Yes.

10 Q. For all of the distribution centers, the
11 second bullet point reads:

12 "Suspicious controlled drug order
13 processing and reporting."

14 Do you see that?

15 A. Yes.

16 Q. And then the fourth bullet point for all
17 distribution centers says:

18 "Lack of formalized C-II controlled
19 substance policies and procedures."

20 Do you see that?

21 A. Yep.

22 Q. I asked you generally about the -- the
23 audit that took place and whether anybody ever
24 notified you about that.

1 Specifically as to these two issues that
2 both touch on Schedule II controlled substances, the
3 suspicious controlled drug order process and recording
4 and the formalized C-II controlled substance policies
5 and procedures, did anybody from internal auditing,
6 anybody from corporate, anybody at all with Walgreens
7 come to you and tell you that those were two areas
8 that had been identified as requiring improvement so
9 as to avoid potential DEA sanctions?

10 A. No, not to my recollection.

11 Q. Do you recall if we -- that when we looked
12 in your LinkedIn profile, one of the things that you
13 had indicated you had had the opportunity to do when
14 you were bringing the C-II department online --

15 A. Uh-huh.

16 Q. -- was draft some policies and procedures,
17 correct?

18 A. Correct, yep.

19 Q. That was something that fell directly
20 within your purview, correct?

21 A. Correct.

22 Q. And that was something that -- that you
23 put together, I think you said after and in
24 coordination with visiting with the folks at Woodlands

1 and the folks at Jupiter, correct?

2 A. Correct.

3 Q. Okay. At any point in time after you had
4 done that, did you receive any feedback from anybody
5 else at Walgreens, corporate, Barb Martin, internal
6 auditing, Steve Kneller, or those types of folks, that
7 there were any deficiencies with the policies or
8 procedures that you put together?

9 A. Not that I recall.

10 Q. Did anybody ask you to improve on them
11 or -- or make them more extensive or -- or -- or
12 anything like that?

13 A. No, uhn-uhn.

14 Q. Under Perrysburg specifically, the first
15 bullet point is:

16 "Significant concern regarding the growing
17 in-transit controlled drug losses."

18 Do you see that?

19 A. Yes.

20 Q. Do you know what's being referred to
21 there?

22 A. I believe that's talking about the
23 pilferage of UPS, FedEx packages.

24 Q. Okay. Did you have any involvement with

1 trying to remedy that situation?

2 A. I can't say I had involvement in remedying
3 the situation. I generally sometimes -- you know, I
4 know we -- I had to report it to the local police, of
5 course fill out the DEA 106, or maybe the store did
6 that if it was in transit to them, but I personally
7 did not go out and interview suspects or do anything
8 like that, no.

9 Q. Okay. Okay. If you'd turn the page --
10 page for me, please. The very top under Background it
11 says:

12 "Internal audit's examination for
13 compliance with DEA regulations and company policies
14 for the distribution of controlled drugs was conducted
15 November 17 through 21, 2008."

16 Do you see that?

17 A. Yes.

18 Q. And it says:

19 "The company policies and procedures
20 regarding controlled drugs are communicated to the DCs
21 via the online compliance manual."

22 Do you see that?

23 A. Yes.

24 Q. Do you know what's being referred to

1 there, the online compliance manual?

2 A. Not exactly, no.

3 Q. Is that something that -- that you had
4 access to?

5 A. Well, I don't know exactly what they are
6 referring to, so I don't know if I had access or not.

7 Q. But did you know that -- that the internal
8 audit department was doing at Perrysburg a -- an
9 examination of whether or not your distribution center
10 was in compliance with DEA regulations regarding
11 controlled drugs?

12 A. No, I don't believe I knew that.

13 Q. Until we started looking at this document,
14 did you know that that had happened?

15 MS. SWIFT: Object to form.

16 BY THE WITNESS:

17 A. No, I didn't know that that had happened.

18 BY MR. GADDY:

19 Q. Okay.

20 At no time did anybody come to you and
21 say, Hey, these are the -- these are the changes,
22 these are the improvements, these are the -- the edits
23 we are making to policies based on this internal audit
24 that we perf -- that we had performed?

1 A. They -- I don't recall anyone coming to
2 me, no.

3 Q. It says under -- under Objective, it says:
4 "The purpose of our review was to
5 ascertain if the Perrysburg distribution center is in
6 compliance with DEA regulations and Walgreens'
7 policies relating to controlled dis" -- "drug
8 distribution, handling, and reporting."

9 Do you see that?

10 A. Yes.

11 Q. Under the Scope it says:

12 "The review focused on the internal
13 controls established by Walgreens distribution centers
14 to ensure compliance with DEA regulation Section 1300
15 found in Title 21 of the Federal Code of Regulations."

16 Do you see that?

17 A. Yes.

18 Q. And you recall that we've looked at some
19 of the regulations during the course of our time here
20 today?

21 A. We've looked at a couple, yes.

22 Q. Under the Findings, it says:

23 "Our review found compliance with the
24 following items."

1 Do you see that?

2 A. Yes.

3 Q. And it looks like they listed three
4 different areas where -- that they had examined
5 that -- that they found the distribution center was in
6 compliance, right?

7 A. That's what it looks like, yeah.

8 Q. It looks like one related to
9 pseudoephedrine receiving and shipping reports, one
10 related to retention of records, and one related to
11 controlled substance shipping policies and procedures,
12 right?

13 A. Right.

14 Q. And if you go down to the next paragraph,
15 it says:

16 "Our review disclosed opportunities for
17 improvement of compliance controls in the areas
18 specified below. Management has addressed our
19 concerns and corrective action has either been
20 performed or is in the process of remediation."

21 Do you see that?

22 A. Yes.

23 Q. It says:

24 "Detailed descriptions of our finding and

1 recommendations, along with management responses, are
2 included in Attachment A as indicated."

3 Correct?

4 A. Yes.

5 Q. And then it looks like it lists several
6 different areas, and -- and specifically for -- for
7 our conversation today, I'm most interested in the
8 second one which says: "Controlled drug reporting."

9 Do you see that?

10 A. Yes.

11 Q. Okay. And then the last one that's
12 indicated on there is: "Lack of C-II controlled drug
13 policies and procedures."

14 Do you see that?

15 A. Yep.

16 Q. Okay. If you turn the page, we are going
17 to be on page -- Page 1 of Exhibit A.

18 Are you with me, Ms. Bish?

19 A. Yes, the POC reporting requirements?

20 Q. And that -- yeah, yep. And actually turn
21 one more page. Sorry.

22 A. Okay. That's what I thought.

23 Q. And -- okay.

24 So on Page 2 of Exhibit A, we see the date

1 of 12/22/08 up in the top left-hand corner?

2 A. Correct.

3 Q. And the Issue No. 2 is: "The controlled
4 drug reporting."

5 Do you see that?

6 A. Yes.

7 Q. And it states:

8 "Walgreens is required to have a process
9 to disclose to the DEA any suspicious orders of
10 controlled drugs that deviate from the normal size,
11 pattern, and frequency. Any orders that are deemed to
12 be suspicious are required to be reported to the DEA
13 upon discovery."

14 Do you see that?

15 A. Yes.

16 Q. And then it goes on to say:

17 "Walgreens produces a monthly suspicious
18 controlled drug order report."

19 Do you see that?

20 A. Yes.

21 Q. Okay. And I think we established this is
22 about a year after you personally received the
23 Rannazzisi letter, right?

24 A. Yes.

1 Q. And that was the letter that -- that,
2 among other things, said in there that -- that monthly
3 reports for suspicious orders was -- was not
4 appropriate, correct?

5 A. Yes, it did say that.

6 Q. Okay. There is several sections of -- of
7 what the internal audit folks found that's -- that's
8 been redacted that I'm not able to ask you about.

9 Do you know if Brian Yarbrough is an
10 attorney?

11 A. No, I don't know that.

12 Q. Do you know if any of those internal audit
13 folks are attorneys?

14 A. I don't know the other three, so I
15 couldn't -- I don't know.

16 Q. Okay. Okay.

17 Well, the next thing that we can see there
18 is -- is the recommendation that the internal audit
19 folks were providing, correct?

20 A. Correct.

21 Q. And what they say is:

22 "We recommend discussions continue with
23 the cross-functional team consisting of logistics,
24 corporate and regulatory law, and loss prevention

1 departments."

2 And then we can't really see much after
3 that. Do you see that?

4 A. Yes.

5 Q. And it looks like the management who was
6 assigned to respond to this was Dan Coughlin over in
7 the far right-hand column?

8 A. Yes, that's what it looks like.

9 Q. And what he says here is:

10 "We will coordinate another meeting during
11 the third quarter to continue discussions on reporting
12 suspicious controlled drugs orders."

13 Do you see that?

14 A. Yes.

15 Q. And it looks like he has an estimated date
16 for this next meeting of about five months after this
17 report, is that correct?

18 A. Yes.

19 Q. Okay. Would you agree with me that --
20 that there didn't seem to be a very heightened sense
21 of urgency about addressing this issue in this report
22 if the meeting is set five months later?

23 MS. SWIFT: Object to the form, foundation.

24 BY THE WITNESS:

1 A. Well, I don't know what -- what is one
2 person's urgency isn't necessarily another's.

3 BY MR. GADDY:

4 Q. Okay. Let me just ask for you.

5 A. Okay. For me.

6 Q. For you, if you -- if you had gotten a
7 letter, as you did in 2000 -- in December of 2007
8 saying you shouldn't be doing monthly reports of
9 suspicious orders, that doesn't comply with the
10 regulations, and if you have results of an internal
11 audit a year later that says that's an issue that we
12 flagged where we are concerned about potential
13 sanctions from the DEA if we don't fix this issue, and
14 you see that you are still doing monthly reports of
15 suspicious orders a year later --

16 A. Uh-huh.

17 Q. -- would you agree that setting a meeting
18 to talk about it five months down the road, in your
19 opinion, your opinion only, would you agree that's not
20 exactly demonstrating a sense of urgency?

21 MS. SWIFT: Objection; lacks foundation.

22 BY THE WITNESS:

23 A. Well, it would, but it sounds like he is
24 not -- he is saying the next cross-functional meeting,

1 but in the meantime I -- I understand that the people
2 are going to talk to each other and discuss their
3 ideas. But my understanding is on May 31st, then,
4 they are going to get together and say here is what
5 we've come up with, you know, and decide what they are
6 going to do.

7 BY MR. GADDY:

8 Q. Okay.

9 A. That's how I read it.

10 Q. Do you -- is that a sense of urgency to
11 you or no?

12 MS. SWIFT: Object to the form.

13 BY THE WITNESS:

14 A. So you are asking for my personal opinion.
15 I -- I would -- I probably would have done it a couple
16 months sooner personally, but...

17 BY MR. GADDY:

18 Q. You would agree that if they had set a
19 meeting in two or three or four, even five days, I
20 think we would be in agreement that that was
21 demonstrating a sense of urgency?

22 MS. SWIFT: Objection; lacks foundation.

23 BY THE WITNESS:

24 A. Well, I -- I would think a couple of weeks

1 is what I would have given it, but yeah, not three,
2 four, five days, but...

3 BY MR. GADDY:

4 Q. So a couple of weeks you would have -- you
5 would have agreed was -- was demonstrating a sense of
6 urgency, a couple of days you definitely would agree
7 was demonstrating a sense of urgency, right?

8 A. Yeah, that would be -- a couple of days
9 would definitely be urgent.

10 Q. That would show that -- I mean, a couple
11 of days, that would show it was -- it was a pretty
12 high priority to get it -- to get it addressed,
13 correct?

14 A. In my opinion, yeah.

15 Q. Okay.

16 Turn with me, if you would, it is going to
17 be the very last page of the document, or the very
18 first page, I believe it is 14, of Exhibit A. And you
19 see this is the section about the development of C-II
20 controlled drug policies and procedures.

21 Do you see that?

22 A. Yes.

23 Q. And it says in the issue box that:

24 "The logistics and planning department

1 utilizing the online compliance manual to communicate
2 management's objectives, policies and procedures for
3 C-III through V controlled drug process to ensure
4 compliance with DEA regulations."

5 Do you see that?

6 A. Yes.

7 Q. It goes on to say:

8 "Based on the past DEA compliance reviews
9 performed at DCs housing C-II controlled drugs, IA has
10 noted the need to formalize the policies and
11 procedures specific to the C-II controlled drug
12 process due to recurring issues and unknown procedures
13 to ensure regulatory compliance."

14 Do you see that?

15 A. Yes.

16 Q. Do you agree with what the internal audit
17 department is saying here that -- that it would be a
18 good thing to have consistent policy and pre --
19 procedures in place as it relates to the handling and
20 reporting of C-II drugs?

21 You would agree with that, right?

22 A. Yes, I would.

23 Q. And if you look under the Risk section, it
24 says:

1 "If C-II controlled drugs policies and
2 procedures are not documented and available for
3 reference, employees could make compliance decisions
4 that are not in the best interests of Walgreens."

5 Do you see that?

6 A. Yes.

7 Q. And you agree that -- that if you don't
8 have consistent and available policies and procedures,
9 that that could lead to problems?

10 A. Well, I don't know if it would lead to
11 problems, but you always want to be consistent with
12 your three DCs running a C-II, you would want each of
13 them doing it the same way just because -- that's the
14 same way with any department, you know.

15 Q. It goes on to say in the Recommendation
16 section:

17 "The logistic and planning department
18 should develop and update the online compliance manual
19 to include policies and procedures covering the entire
20 C-II controlled drug process."

21 Do you see that?

22 A. Yes.

23 Q. And -- and I -- and -- and I think it
24 would be fair to say that during the course of today

1 I've asked you questions about a lot of different
2 processes --

3 A. Uh-huh.

4 Q. -- in the C-II process.

5 A. Uh-huh.

6 Q. Does that make sense?

7 A. Yeah.

8 Q. Okay. Do you agree with that?

9 A. Yeah, you've asked me a lot of questions
10 about that, yeah.

11 Q. Okay.

12 And -- and you would agree that there has
13 been many times where you've had to tell me, Look, I
14 know you are asking about C-IIs, but that falls
15 outside of my purview for what I do with C-IIs.

16 Is that fair?

17 A. Yes, some of them, yeah.

18 Q. Okay. Was this ever done, this -- this
19 recommendation here from December of 2008, was -- was
20 it ever done where there were policies and procedures
21 putting together that covered the entire C-II
22 controlled drug process so that somebody like you who
23 might get a letter from Joe Rannazzisi about issues or
24 compliance-related matters with the C-II process could

1 be properly informed to how to respond to that letter
2 or to who to send that letter to or what actions to
3 take?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. I actually do think they did put C-II --
7 something for C-II policies on the Intranet, which is
8 where I think they are referring to back over here
9 about a compliance manual online for everyone to view.
10 That's where I think they're re -- put their -- that's
11 what they are referring to, I believe.

12 BY MR. GADDY:

13 Q. Okay. After that happened, do -- do you
14 recall there being any training session or
15 instructional opportunity where you could actually sit
16 down and learn the entire C-II controlled drug process
17 so that you could answer some of these questions about
18 the suspicious order monitoring program or ceiling
19 limits or threshold limits or things like that that
20 you haven't really completely been in the loop about
21 today?

22 MS. SWIFT: Object to the form, compound.

23 BY THE WITNESS:

24 A. Well, the things it lists here, first of

1 all, no, I -- I don't recall anyone saying you need to
2 go read all of these. But I was aware that they were
3 there, but, again, the suspicious drugs and all of
4 that I thought were being handled by other
5 departments, but what they have listed here are things
6 that I would expect to have in that manual, the
7 receiving, shipping, DEA forms, vault combination
8 changes, how often do you make them, why do you make
9 them, power of attorney letters, you know, on and on.

10 BY MR. GADDY:

11 Q. Do you agree that you would have been in a
12 better position to respond to or forward on the letter
13 you got from Joe Rannazzisi had you actually had some
14 substantive knowledge about the suspicious order
15 monitoring process that was being utilized at
16 Walgreens?

17 MS. SWIFT: Object to the form, mischaracterizes
18 the testimony.

19 BY THE WITNESS:

20 A. I don't know. Say that a -- or repeat
21 that a minute, can you?

22 BY MR. GADDY:

23 Q. Sure.

24 So I -- I think you've told us a couple of

1 times that you were under the impression --

2 A. Uh-huh.

3 Q. -- that somebody at corporate, maybe Barb
4 Martin, maybe somebody else, maybe some other group,
5 was doing some type of monitoring or screening
6 process.

7 Is that generally fair?

8 A. Right, the program, yeah.

9 Q. Okay.

10 A. The computer program, whatever. Uh-huh.

11 Q. You get this letter in from Joe
12 Rannazzisi, you file it, you believe you may have sent
13 it to Barb Martin.

14 A. Uh-huh.

15 Q. My question for you is: Do you agree that
16 you could have better res -- been in a better position
17 to respond to that letter or in a better position to
18 forward it to -- to the appropriate people or in a
19 better position to raise concerns that are addressed
20 in that letter had you actually had some substantive
21 knowledge about what Walgreens was doing specifically
22 as it related to sus -- suspicious order monitoring?

23 MS. SWIFT: Objection; compound,
24 mischaracterizes the testimony.

1 BY THE WITNESS:

2 A. Would I have perhaps sent it to different
3 people. I might have sent it to more internal audit
4 people. I can see where that would have assisted me
5 with knowing that. I can't really say it would have
6 made a difference otherwise.

7 BY MR. GADDY:

8 Q. Well, for example, the -- the Rannazzisi
9 letter says that monthly reports of suspicious orders
10 are -- are -- is not appropriate, not the way to do
11 it, right?

12 A. Right.

13 Q. Yeah.

14 A. Yeah.

15 Q. And we know now because we've looked at
16 one of those today, that that's what Walgreens was --
17 was doing was suspicious or -- monthly reports of
18 suspicious orders, right?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. Yeah, that's what the form said. I just
22 don't know what else they were doing on top of that
23 already.

24 BY MR. GADDY:

1 Q. Sure.

2 And -- and tell me if I'm wrong, but my
3 presumption was that if you knew that Walgreens'
4 practice was just doing simple monthly suspicious
5 order reports and sending them to the DEA --

6 A. Uh-huh.

7 Q. -- and then you got a letter from the DEA
8 saying that's not the way to do it, I imagine that you
9 would have raised a flag and said, Hey, this is
10 serious, this is how we are doing it, the DEA is
11 saying you can't do it this way --

12 A. Right.

13 Q. -- we've got to take some action and
14 change something?

15 A. Right. That's what I mean. I would have
16 sent it to internal audit people instead, because they
17 are the ones to me that would be more -- this would be
18 more relative to than Barb Martin --

19 Q. Okay.

20 A. -- is what I'm saying.

21 Q. And -- and -- and you would have raised
22 that specific issue if that was one that you had been
23 able to identify, right?

24 A. Yes. I would have asked them to look at

1 it and say are we -- you know, are we doing anything
2 besides the printed report.

3 Q. Okay. But because you didn't have this
4 other knowledge about what was actually being done and
5 because you weren't reviewing the suspicious order
6 reports, you didn't have that ability or that --
7 that -- you didn't have that knowledge that that was
8 something that should be raised, is that fair?

9 MS. SWIFT: Object to the form of the question.

10 BY THE WITNESS:

11 A. Well, it's fair to say that I would
12 have -- I would have not -- I -- I might have sent it
13 to different people. I still don't think it would
14 have -- and those people that I thought would have the
15 most power to change things or tell me what else they
16 were doing besides the printed report, but I didn't
17 know what else they were doing.

18 BY MR. GADDY:

19 Q. Now, we've referenced it a couple of times
20 already and I think we've looked at some e-mails from
21 April and May of 2012 that referenced issues going on
22 with the DEA at Jupiter.

23 A. Uh-huh.

24 Q. Do you recall that generally?

1 A. Yes.

2 Q. Okay. And you certainly became aware that
3 the DEA began an investigation into the Jupiter
4 distribution center.

5 Is that fair?

6 A. Well, I knew they had gone to the
7 distribution center. I didn't know actually that they
8 were investigating, but, you know, that would be an
9 assumption. I don't know that. No one told me that.

10 Q. Okay. Do you know that Walgreens entered
11 into a settlement agreement with the DEA regarding
12 allegations that Walgreens had violated certain
13 provisions of the Controlled Substance Act?

14 A. No, I wasn't aware of that either.

15 Q. Okay. I'm going to show you what I'm
16 going to mark as Exhibit No. 19.

17 (WHEREUPON, a certain document was
18 marked Walgreens - Bish Deposition
19 Exhibit No. 19, for identification,
20 as of 02/01/2019.)

21 BY MR. GADDY:

22 Q. Do you see the -- this is P-WAG 1.

23 Do you see the very top page, top of the
24 first page says Settlement and Memorandum of

1 Agreement?

2 A. Yes.

3 Q. And if you read that first paragraph, it
4 says:

5 "This Memorandum of Agreement is entered
6 into by and between DOJ and DEA and Walgreens."

7 Do you see that?

8 A. Yes.

9 Q. Okay. Do you know if you have ever seen
10 this page before?

11 A. Just with my prep session.

12 Q. Okay. And when did you have the
13 opportunity to -- to prepare for the deposition today?

14 A. Yesterday.

15 Q. Okay. And was that the only time?

16 A. No.

17 Q. Okay. When was -- when was the other
18 occasion or occasions?

19 A. I don't remember the dates.

20 Q. How many times?

21 A. Three times total.

22 Q. Okay. About how many hours each time?

23 A. Two or three hours each.

24 Q. Okay. And during those meetings, you had

1 the opportunities to look at some documents?

2 A. I was shown this document, which I hadn't
3 seen.

4 Q. Okay. Well, this wasn't the only document
5 you were shown, was it?

6 A. No. There were others.

7 Q. Okay. And during those -- those prep
8 sessions you were shown this document, it was fair to
9 say it was the first time you were ever shown this
10 document?

11 A. Yes.

12 Q. Okay. And had anybody at Walgreens prior
13 to this litigation that we are here taking your
14 deposition in, anybody at Walgreens ever shown you
15 this document before?

16 A. No.

17 Q. Okay. When you were shown this document
18 during your -- your prep session, if it was only two
19 or three hours, I'm guessing you didn't get to read
20 the whole thing?

21 A. No.

22 Q. Okay. Did you get to read any particular
23 portions of it?

24 A. No.

1 Q. Okay. If you look at -- I'm going to go
2 under Procedural Back -- Background.

3 A. Okay.

4 Q. You see it says:

5 "Walgreens owns or operates (or has
6 previously owned or operated) distribution centers
7 that are or were registered with DEA as distributors
8 of Schedule II through V controlled substances under
9 the provisions of the Controlled Substances Act."

10 Do you see that?

11 A. Yes.

12 Q. And I think you told us earlier that there
13 were only three that were approved to distribute
14 C-IIIs, right?

15 A. Right.

16 Q. And that was --

17 A. That I knew.

18 Q. Okay. And that was Jupiter, Woodland and
19 Perrysburg where you worked?

20 A. Right.

21 Q. Okay. If you go down to the third
22 paragraph, do you see where it says that on April 7th,
23 2011, Walgreens entered into a settlement and release
24 agreement and a different MOA with the DEA.

1 Do you see that?

2 A. And a different --

3 Q. Oh, I'm sorry.

4 A. Oh.

5 Q. "Entered into a settlement and release
6 agreement and administrative MOA with the DEA."

7 Do you see that?

8 A. Yes.

9 Q. And it says that's at Appendix A?

10 A. Yes.

11 Q. If you look at the very bottom of the
12 page, you'll see it says 1 of 349.

13 A. Um-hum.

14 Q. That's the numbering system I'm going to
15 use.

16 A. Okay.

17 Q. So let's turn to Appendix A real quick,
18 which is on Page 19.

19 Are you with me?

20 A. Am I? Appendix A?

21 Q. Yes.

22 A. Yeah.

23 Q. And you see at the top it says
24 Administrative Memorandum of Agreement?

1 A. Yes.

2 Q. And under Background it says:

3 "On September 30th, 2009, the Deputy
4 Assistant Administrative Office of Diversion Control
5 issued an order to show cause proposing to revoke DEA
6 Certificate of Registration," and it gives a number,
7 "of Walgreens," and then it gives a number.

8 Does that look like a store number?

9 A. Yes.

10 Q. "Located at a particular address in
11 San Diego, California."

12 Do you see that?

13 A. Yes.

14 Q. It goes on to say that:

15 "That order to show cause alleged that
16 that particular Walgreens store dispensed controlled
17 substances to individuals based on purported
18 prescriptions issued by physicians who were not
19 licensed to practice medicine in California, dispensed
20 controlled substances to individuals located in
21 California based on internet prescriptions issued by
22 physicians for other than a legitimate medical purpose
23 and/or outside the usual course of professional
24 practice in violation of Federal and state law; and

1 dispensed controlled substances to individuals that
2 Walgreens" or at that particular store "knew or should
3 have known were diverting the controlled substances."

4 Do you see that?

5 A. Yes.

6 Q. The first agreement that we were looking
7 at and that we'll go back to in a moment dealt with --
8 with what started at the Jupiter distribution center.

9 This is obviously dealing with a store in
10 San Diego, correct?

11 A. Correct.

12 Q. Did you, prior to us just looking at this
13 just now, did you have any understanding that there
14 was an earlier settlement agreement between Walgreens
15 and the DEA dealing with this particular store in
16 San Diego?

17 A. No.

18 Q. Do you see that the No. 3, the third
19 allegation listed there, dealt with that particular
20 Walgreens store's filling prescriptions that they knew
21 or should have known were being diverted?

22 A. Knew or should have known, yeah, I see
23 that, um-hum.

24 Q. So you'd agree with me that that's a

1 possibility for -- for controlled substances to be
2 diverted even if they are going to Walgreens stores?

3 MS. SWIFT: Objection to form; calls for a legal
4 conclusion.

5 BY THE WITNESS:

6 A. Well, it says they -- they dispensed them
7 to individuals at the store -- oh, I see what they are
8 saying, "knew or should have known were diverting."

9 Oh, I'm not sure how they would have
10 known. How would they have known? Oh, I'm sorry. I
11 can't ask you a question.

12 Q. My question to you is -- is that do you
13 see there that part of this settlement agreement that
14 Walgreens entered into related to this store in
15 San Diego --

16 A. Uh-huh.

17 Q. -- that one of the reasons that they had
18 to enter into this settlement agreement were
19 allegations that this particular Walgreens store was
20 dispensing controlled substances to individuals that
21 it knew or should have known were diverting those
22 drugs?

23 A. Yeah, I can see that.

24 Q. Okay. All right. So turn with me to

1 the -- to the next page, Page 20, and Paragraph 4
2 says: "Obligations of Walgreens."

3 Do you see at the very top of the page it
4 said: "Terms and conditions for this settlement
5 agreement"?

6 A. Yes.

7 Q. Under A, it says:

8 "Walgreens agrees to maintain a compliance
9 program to detect and prevent diversion of controlled
10 substances as required under the Controlled Substances
11 Act and applicable DEA regulations."

12 Do you see that?

13 A. Yes.

14 Q. And:

15 "This program shall include procedures to
16 identify the common signs associated with the
17 diversion of controlled substances including but not
18 limited to, doctor-shopping and requests for early
19 refills."

20 Do you see that?

21 A. Yes.

22 Q. And if you go down to paragraph C, we see
23 another item that Walgreens agreed to, it says:

24 "Walgreens shall implement, maintain

1 policies and procedures to ensure that prescriptions
2 for controlled substances are only dispensed to
3 authorized individuals pursuant to federal and state
4 law and regulations."

5 Do you see that?

6 A. Yes.

7 Q. And then if you go to Paragraph D, you see
8 another item that Walgreens agreed to, which is:

9 "Walgreens shall not knowingly fill an
10 invalid prescription or a prescription that it
11 reasonably believes was issued for other than a
12 legitimate medical purpose or by a practitioner acting
13 outside the usual course of professional practice."

14 Do you see that?

15 A. Yes, I see that.

16 Q. And were any of these items that you were
17 made aware of by anybody at Walgreens as far as this
18 settlement that Walgreens was entered into based on
19 these 2009 allegations?

20 A. I have not seen any of these before, is
21 that what you are asking?

22 Q. I'm asking that -- I know you haven't seen
23 it, but I'm asking if anybody told you about it?

24 A. No.

1 Q. Flip back to the first page for me,
2 please.

3 Oh, sorry, first page of the whole
4 document. And now I'm going to go down to Paragraph 5
5 and so we are going to go back to this -- this
6 investigation that started at Jupiter.

7 A. Okay.

8 Q. And do you see where -- you see -- are you
9 with me on Paragraph 5?

10 A. Yep, yep.

11 Q. It says:

12 "On September 13, 2012, the DEA, by its
13 administrator, Michelle M. Leonhart, issued an order
14 to show cause and immediate suspension to registration
15 to Walgreens Jupiter."

16 Do you see that?

17 A. Um-hum.

18 Q. And it directs us to -- to Appendix B.

19 A. Right.

20 Q. So let's go and look at that. It's going
21 to be -- you are going to see Appendix B on Page 27
22 and then you can turn one page to get to the -- to the
23 actual order to show cause.

24 Are you with me?

1 A. Yes. Uh-huh.

2 Q. And you see up at the top this Order to
3 Show Cause is on DEA letterhead?

4 A. Yes.

5 Q. And it's dated September 13th, 2012.
6 Do you see that?

7 A. Yes.

8 Q. And it says:

9 "In the matter of Walgreens Company
10 Jupiter, Florida address."

11 Do you see that?

12 A. Yes.

13 Q. And it's entitled "Order to Show Cause and
14 Immediate Suspension of Registration," correct?

15 A. Correct.

16 Q. It then says, in the first sentence under
17 Notice, it says:

18 "Notice is hereby given to inform Walgreen
19 Corporation of the immediate suspension of DEA
20 Certificate of Registration," and then it gives a
21 number, "pursuant to certain statute, because such a
22 registration constitutes an imminent danger to the
23 public health and safety."

24 Do you see that?

1 A. Yes.

2 Q. Did anybody at Walgreens ever tell you
3 that the DEA had determined that were the Jupiter
4 distribution center to continue to operate, distribute
5 C-II drugs, that the DEA considered that to constitute
6 an imminent danger to the public health and safety?

7 A. No.

8 Q. Okay. Would you agree that that's a
9 pretty serious allegation?

10 A. If it were true, yes, it would be.

11 Q. Okay. If you go to Paragraph 2 --

12 A. Uh-huh.

13 Q. -- on the next page --

14 A. Uh-huh.

15 Q. Do you see where it says:

16 "Since 2009, the State of Florida has been
17 the epicenter of a notorious, well-documented epidemic
18 of prescription drug abuse."

19 Do you see that?

20 A. Yes.

21 Q. Did you have that understanding back in
22 2009, 2010, 2011?

23 A. Yeah. That would have just been from the
24 news. My understanding is not from Walgreens.

1 Q. Okay. Nobody at Walgreens gave you any
2 information about there being an epidemic of
3 prescription pill abuse in Florida?

4 A. No.

5 Q. Did anybody at Walgreens give you any
6 information about any epidemic or -- or -- or crisis
7 or serious increase in drug abuse or drug overdoses
8 in, you know, the Appalachian region that would have
9 been in the Perrysburg area, the West Virginia,
10 Kentucky, Southern Ohio, at those -- those areas?

11 MS. SWIFT: Objection; compound.

12 BY THE WITNESS:

13 A. I don't recall anyone talking to me about
14 that in other -- those states, no.

15 BY MR. GADDY:

16 Q. It goes on to say:

17 "In July 2011 the Florida Surgeon General
18 declared a public health emergency based on the
19 prescription pill epidemic which results in an average
20 of seven overdose deaths per day in Florida."

21 Do you see that?

22 A. Yes.

23 Q. Okay. Was that something you were aware
24 of?

1 A. No.

2 Q. If you go down to Paragraph 5, it says:

3 "According to DEA records, in 2011,

4 Walgreens operated 7,862 retail pharmacies in the

5 United States."

6 Do you see that?

7 A. Yes.

8 Q. And I think you told us earlier that it

9 was a little over 8,000, so you added -- Walgreens has
10 added several stores since then, correct?

11 A. Yes, that's my guess is that it is 8,000,
12 around 8,000, um-hum.

13 Q. It says:

14 "16 of the top 25 largest Walgreens retail
15 oxycodone purchasers, including the top six
16 purchasers, were in Florida and supplied by
17 respondent," which is Walgreens.

18 It says:

19 "The following table shows these six
20 stores and their yearly oxycodone purchases for 2009
21 through 2011."

22 Do you see that?

23 A. Yes.

24 Q. Do you see the chart on the top on the

1 next page?

2 A. Yes.

3 Q. And it looks like on the left-hand column
4 it gives a store number and a location of a particular
5 store.

6 A. Uh-huh.

7 Q. Do you see that?

8 A. Yes.

9 Q. And then the next several columns it looks
10 like gives the number of dosage units of oxycodone
11 purchased by those stores in 2009, 2010 and 2011.

12 Do you see that?

13 A. Yes.

14 Q. Okay. And the first one that is listed
15 there is Hudson, Florida.

16 Do you see that?

17 A. Yes.

18 Q. And it looks like in 2009 that store got
19 approximately 388,000 dosage units of oxycodone, 2010
20 it went up to 913,000, and then in 2011 it went up to
21 2.2 million dosage units.

22 Do you see that?

23 A. Yes.

24 Q. Would you agree with me that that is a

1 significant increase in dosage units of oxycodone over
2 that two-year period?

3 A. That appears to be a significant increase.

4 Q. And -- and I think, again, I'm not going
5 to ask you to bust out a calculator, but -- but would
6 you agree with me that that's an approximately
7 500 percent increase?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Yeah, I don't -- I don't know because I'm
11 not doing it in my head, but I just don't know why.
12 I -- I don't know why.

13 BY MR. GADDY:

14 Q. Okay. Regardless, whether -- whether --
15 whether you do the math and it is 500 percent or not,
16 you agree it is a significant increase in oxycodone?

17 A. It is an increase, yes. Uh-huh.

18 Q. Okay. The next entry there is for
19 Fort Meyers, Florida, and you see that in 2009 they
20 received 98,000 dosage units, in 2010 496,000 dosage
21 units, and then in 2011 over 2.1 million dosage units.

22 Do you see that?

23 A. Yeah, I see that.

24 Q. Again, just roughly doing the math, that

1 looks like approximately a 2,000 percent increase from
2 2009 to 2011.

3 Does that look like about right to you?

4 MS. SWIFT: Objection to form.

5 BY THE WITNESS:

6 A. I don't know. I'm not that good at math.

7 I don't know.

8 BY MR. GADDY:

9 Q. Okay. Well, it increased more than
10 20 times, right? Because a --

11 MS. SWIFT: Object to the form.

12 BY MR. GADDY:

13 Q. Because a hundred thousand times 20 would
14 be 2 million and it went up more than that, right?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. Well, yeah, I see it says it went up to
18 that, yeah.

19 BY MR. GADDY:

20 Q. Okay. The third store indicated there is
21 for Oviedo, Florida.

22 Do you -- do you know how many people live
23 in Oviedo, Florida?

24 A. No. I never heard of it.

1 Q. Okay. Do you see there in 2009 that
2 particular town got 80,000 oxycodone dosage units, in
3 2010 they got 223,000 dosage units, and in 2011 they
4 got over 1.6 million dosage units.

5 Do you see that?

6 A. I see that.

7 Q. You -- you agree that that increased 15,
8 16, 17 times over that from 2009 to 2011, correct?

9 MS. SWIFT: Objection to form.

10 BY THE WITNESS:

11 A. That's what the form says, yeah.

12 BY MR. GADDY:

13 Q. And -- and we won't go through every
14 single one of those, but would you would agree these
15 are significant increases in the amount of oxycodone
16 going into these towns in Florida over a two-year
17 period?

18 MS. SWIFT: Object to form.

19 BY THE WITNESS:

20 A. The form makes it look like there is a big
21 increase, yes, the numbers on there.

22 BY MR. GADDY:

23 Q. Is there any policy or program or practice
24 that would have been in place at the Jupiter

1 distribution center that -- that should have prevented
2 this from happening that you are aware of?

3 MS. SWIFT: Objection; foundation.

4 BY THE WITNESS:

5 A. I wouldn't know what they are doing down
6 there. I also don't know their state laws, so I'm
7 not -- I couldn't answer that.

8 BY MR. GADDY:

9 Q. If you look at No. -- Paragraph No. 7, do
10 you see it says:

11 "DEA's investigation of respondent also
12 revealed that Walgreens failed to detect and report
13 suspicious orders by its pharmacy customers, in
14 violation of 21 CFR 1301.74(b)."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And if you go about halfway down
18 that paragraph, there is a sentence that starts,
19 "Walgreens knew or should have known."

20 Are you with me?

21 A. Yes. Uh-huh.

22 Q. It says:

23 "Walgreens knew or should have known about
24 their obligations to report suspicious orders, as

1 obligations were spelled out in detail in three
2 letters from DEA's deputy adminis" -- "assistant
3 administrator, Office of Diversion Control, sent to
4 every registered manufacturer and distributor,
5 including Walgreens, on September 27th of '06,
6 February 7th of '07, and December 27th of 2007."

7 Do you see that?

8 A. Yes.

9 Q. Do you recall that we looked at that
10 letter from December 27th of 2007 from Joe Rannazzisi,
11 the deputy to assistant administrator, the Office of
12 Diversion Control, that was addressed to you?

13 A. Yes.

14 Q. The C-II manager, right?

15 A. Yes.

16 Q. Okay. And here in this -- this order to
17 show cause from September of 2012, almost five years
18 after that letter is sent out, you see the DEA is
19 saying that Walgreens should have known about their
20 obligations because of that letter, correct?

21 A. Yeah, I don't see exactly where you are
22 now, but I do recall that.

23 Q. Do you recall that we looked at the -- we
24 talked earlier about the Rannazzisi letter that said

1 don't give us the monthly suspicious order reports,
2 and then we looked at the audit report from a year
3 later where you said that's what you were still doing
4 and it said let's have a meeting in May.

5 Do you remember that?

6 MS. SWIFT: Objection; mischaracterizes the
7 documents.

8 BY THE WITNESS:

9 A. I remember them saying they were going to
10 meet the internal auditors, we were going to meet,
11 yes.

12 BY MR. GADDY:

13 Q. Do you know how long Walgreens continued
14 to send simply the monthly suspicious order reports?
15 Do you know for how long that continued to happen?

16 A. No, uhn-uhn.

17 Q. I'll show you what I'll mark as
18 Exhibit 20. This is P-WAG 1803.

19 (WHEREUPON, a certain document was
20 marked Walgreens - Bish Deposition
21 Exhibit No. 20, for identification,
22 as of 02/01/2019.)

23 BY MR. GADDY:

24 Q. Do you see the first page of this document

1 is on Walgreens letterhead?

2 A. Yes.

3 Q. And it's dated January 5th, 2010?

4 A. Yes.

5 Q. Do you see that?

6 And it is addressed to the DEA Miami field
7 division and it is regarding the Walgreens Jupiter
8 distribution center?

9 A. Yes.

10 Q. And it says:

11 "Enclosed is the suspicious control drug
12 orders report for the last month available."

13 Do you see that?

14 A. Yes.

15 Q. And then it has the regis -- the DEA
16 number and the address for the Wal -- for the Jupiter
17 distribution center, correct?

18 A. Correct.

19 Q. Okay. And if you flip through this
20 report, do you see that what you are looking at here
21 are cover letters for different months and different
22 years, as you go through, of the exact same letter
23 sending the exact same monthly report to the exact
24 same DEA Miami field division office?

1 MS. SWIFT: Objection to form, foundation.

2 BY THE WITNESS:

3 A. Yeah, I don't -- I don't know if it is the
4 exact same report. I -- I'm assuming there is an
5 attachment or something.

6 BY MR. GADDY:

7 Q. Absolutely. And -- and what I intended to
8 say is, if I didn't, was a cover -- these were cover
9 letters.

10 A. Right.

11 Q. So do you see the first -- first page that
12 we looked at, it looks like a cover letter that's
13 dated January 5th, 2010, and it says: "Enclosed is
14 the suspicious control drug order report for the last
15 month," correct?

16 A. Right, uh-huh.

17 Q. If you flip the page and look at the very
18 next one, it is from February of 2010, correct?

19 A. Correct.

20 Q. Addressed to the same DEA Miami field
21 division office, right?

22 A. Right.

23 Q. And again it has that same language:

24 "Enclosed is the suspicious control drug order report

1 for the last month."

2 Do you see that?

3 A. Yes.

4 Q. And if you go -- it looks like we didn't
5 have one for March, so it looks like we've got from
6 April, also providing a monthly report.

7 Do you see that, April of 2010?

8 A. Um-hum.

9 Q. And if you flip through here, do you see
10 the Bates ending 729?

11 A. Um-hum.

12 Q. It looks like there is still the same
13 monthly report is going to the same DEA field office
14 related to the Jupiter distribution center in January
15 of 2011, correct?

16 A. Correct.

17 Q. If you flip one page, the next one we have
18 here is May 2011, same monthly reports going, correct?

19 MS. SWIFT: Objection to form.

20 BY THE WITNESS:

21 A. That's how it appears.

22 BY MR. GADDY:

23 Q. If you keep flipping through, you see
24 reports, the monthly reports going in June, July,

1 August, September, October, November, and December
2 of 2011, correct?

3 A. They are cover letters for those, yeah.

4 Q. And in December of 2011, that would be
5 approximately four years after you had received that
6 letter from Joe Rannazzisi saying that monthly reports
7 of suspicious orders was not sufficient, correct?

8 MS. SWIFT: Object to the form.

9 BY THE WITNESS:

10 A. Correct, his letter was dated December
11 of 2007.

12 BY MR. GADDY:

13 Q. Okay. And if you turn the page to the
14 very last page of this document, it looks like the
15 last one that we have here is the same monthly report
16 being sent to the DEA in January of 2012, correct?

17 A. That's what it looks like, yes.

18 Q. Okay. So when you -- when Walgreens
19 receives this order to show cause in September
20 of 2012, do you agree that it makes some sense while
21 they are saying that Walgreens in that first sentence
22 of Paragraph 7 failed to detect and report suspicious
23 orders in violation of that particular regulation?

24 MS. SWIFT: Objection to form.

1 BY THE WITNESS:

2 A. I'm sorry. I lost where you were on here.

3 BY MR. GADDY:

4 Q. Sure.

5 A. What are you reading?

6 Q. I'm on Page 30, Paragraph 7.

7 A. Okay.

8 I'm sorry. You'll have to repeat the
9 question now. I forgot.

10 Q. Absolutely.

11 A. I didn't know where you were.

12 Q. So, and maybe it is a little bit more
13 helpful to start at the bottom of the paragraph, the
14 section that starts: "Walgreens knew or should have
15 known."

16 A. Oh, okay.

17 Q. Do you see that?

18 A. Yep.

19 Q. "Walgreens knew or should have known about
20 their obligations to report suspicious orders as the
21 obligations were spelled out in detail in three
22 letters from the DEA."

23 And then it gives the dates and one of
24 those is that December 27th letter that we looked at,

1 correct?

2 A. Correct.

3 Q. Okay. And you agree that with that in
4 mind, that you had received this letter, that they are
5 charging in the first sentence of Paragraph 7 that
6 Walgreens failed to detect and report suspicious
7 orders as required by that particular regulation?

8 MS. SWIFT: Object to the form of the question.

9 BY THE WITNESS:

10 A. Yeah, it says "the respondent," but,
11 again, corporate was doing a lot -- I thought was
12 doing a lot of that and the respondent refers to
13 Jupiter, I think, doesn't it?

14 BY MR. GADDY:

15 Q. I think Walgreens -- I think respondent
16 means Walgreens.

17 A. Walgreens in general, okay.

18 Q. Yes.

19 Okay. So, again, you relied on -- on your
20 assumption that corporate was doing something above
21 and beyond?

22 A. Um-hum.

23 Q. Okay.

24 If you look at Paragraph 8 on the next

1 page, do you see that it says:

2 "Notwithstanding the ample guidance
3 available, Walgreens has failed to maintain an
4 adequate suspicious order reporting system and as a
5 result has ignored readily identifiable orders and
6 ordering patterns that, based on the information
7 available throughout the Walgreens corporation, should
8 have been obvious signs of diversion occurring at
9 Walgreens' customers pharmacies."

10 Do you see that?

11 A. Yes.

12 Q. Okay. At any point in time after this was
13 served on Walgreens in September of 2012, did anybody
14 come to you and say that the DEA has found some --
15 some issues with the way that we're identifying and
16 reporting the suspicious orders and we need to change
17 the way we are doing things so that we can make sure
18 the pills are getting to people that actually need
19 them?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. Not that I recall.

23 BY MR. GADDY:

24 Q. Okay. It says:

1 "Respondent's practice with regard" -- in
2 Paragraph 9. I'm sorry.

3 "Respondent's practice with regard to
4 suspicious order reporting was to send to the local
5 DEA field office a monthly report labeled suspicious
6 controlled drugs orders."

7 Do you see that?

8 A. Yes.

9 Q. And that's familiar with what we just
10 looked at with all of those cover letters, right?

11 A. Right.

12 Q. If you go down to Paragraph 10, it says:

13 "As made clear in the regulation, a case
14 called Southwood, and the December 27th letter," which
15 is the '07 letter which is the one we went over
16 earlier, "to distributors from the DEA, suspicious
17 orders are to be reported as discovered, not in a
18 collection of monthly completed transactions."

19 Do you see that?

20 A. Yes.

21 Q. It goes on to say:

22 "Moreover, commensurate with the obs" --
23 "obligation to identify and report suspicious orders
24 as they are discovered is the obligation to conduct

1 meaningful due diligence in an investigation of the
2 customer and the particular order to resolve the
3 suspicion and verify that the order is actually being
4 used to fulfill legitimate medical needs."

5 Do you see that?

6 A. Yes.

7 Q. And, again, you are not aware of anybody
8 at the distribution center that was doing that type
9 of -- of due diligence or investigation into any
10 particular order that was showing up on these
11 suspicious order reports?

12 MS. SWIFT: Objection; mischaracterizes the
13 testimony.

14 BY THE WITNESS:

15 A. No, because I didn't go through the
16 suspicious order report. If it -- if you are talking
17 just about the orders on the report, no.

18 BY MR. GADDY:

19 Q. Okay. It goes on to say that:

20 "This analysis must take place before the
21 order is shipped."

22 Do you see that?

23 A. Um-hum.

24 Q. You agree that you never held an order to

1 wait for there to be an investigation or an analysis
2 of whether or not the drugs in that order were going
3 to legitimate medical needs?

4 MS. SWIFT: Objection; mischaracterizes the
5 testimony.

6 BY THE WITNESS:

7 A. Well, I don't know that I'd ever have any
8 way of knowing if the doctors that wrote them were
9 legitimate at the DC, but, no, I -- I never held an
10 order waiting to see if it was a legitimate
11 prescription.

12 Is that what you are asking?

13 BY MR. GADDY:

14 Q. I -- I'm asking consistent with what is --
15 is being said here:

16 "Conduct" -- "there is the obligation to
17 conduct meaningful due diligence in an investigation
18 of the customer and the particular order to resolve
19 the suspicion and verify the order is actually being
20 used to fulfill legitimate medical needs."

21 Do you see where I read that?

22 A. Right, I do, but to me that says we had to
23 know the doctor wrote that correctly and that -- I
24 mean, that's how I read that.

1 Q. In any way, shape or form did you or
2 anybody else at the distribution center do that?

3 MS. SWIFT: Objection; lacks foundation.

4 BY THE WITNESS:

5 A. No, not to my knowledge.

6 BY MR. GADDY:

7 Q. It says:

8 "No order identified as suspicious should
9 be fulfilled until an assessment of the order's
10 legitimacy is concluded."

11 Do you see that?

12 A. Yes.

13 Q. It goes on to say:

14 "As such, Walgreens' reports, consisting
15 of nothing more than an aggregate of completed
16 transactions, did not comply with the requirement to
17 report suspicious orders as discovered, despite the
18 title respondent attached to these reports."

19 Do you see that?

20 A. I see that.

21 Q. And again, even though this -- this is
22 written in this order to show cause that's dated
23 September 2012, that's the same information that you
24 were provided in a letter to you back in December

1 of 2007, correct?

2 MS. SWIFT: Object to the form, vague.

3 What information?

4 BY THE WITNESS:

5 A. Well, yeah, the part of the letter that's
6 included in that paragraph that you just read, yeah,
7 I --

8 BY MR. GADDY:

9 Q. Was provided to you back in December of
10 '07, right?

11 A. '07. Uh-huh.

12 Q. Okay. Look at Paragraph 12 for me,
13 please. And I'm going to ask you some questions about
14 some of these paragraphs here specifically because
15 they are talking about Ms. Atwell and the C-II
16 function manager at -- at Jupiter.

17 And she had the same equivalent title that
18 you had, correct?

19 A. Correct.

20 Q. Equivalent responsibilities that you had,
21 correct?

22 A. Correct.

23 Q. Do you recall ever being told or hearing
24 at Walgreens that -- that Ms. Atwell had attempted to

1 flag issues or raise concerns about orders or
2 pharmacies and that those concerns fell on deaf ears
3 and that nothing happened with that?

4 MS. SWIFT: Objection to form.

5 BY THE WITNESS:

6 A. I was never informed. Uh-uh.

7 BY MR. GADDY:

8 Q. I'm sorry?

9 A. I was never informed of that.

10 Q. It goes on to say:

11 "Respondent's employee," in Paragraph 12,
12 "with overall responsibility for Schedule II drug
13 operations, the C-II function manager, raised
14 questions within the corporation about what she
15 correctly identified as unusually large orders for
16 Schedule II narcotics placed regularly by several
17 customer pharmacies.

18 "Based on the evidence available to DEA,
19 none of these orders were reported to DEA as
20 suspicious and all appear to have been shipped,
21 without any further due diligence."

22 Do you see that?

23 Do you see that?

24 A. Yes.

1 Q. If we look at Paragraph A, it says:

2 "In January of 2011, the Jupiter's C-II
3 function manager expressed concern about the enormous
4 volume of 30-milligram oxycodone being ordered by
5 three stores."

6 And it gives the three store numbers. Do
7 you see that?

8 A. Yes, um-hum.

9 Q. It says:

10 "Concluding in an e-mail to the manager of
11 Rx inventory drugstores," do you recognize that to be
12 Barb Martin's title?

13 A. That's what I thought her title was.

14 Q. Okay. And -- and Ms. Martin works in
15 corporate headquarters in Deerfield, correct?

16 A. Correct.

17 Q. And it says that this was --

18 "This concluded in an e-mail to the
19 manager of the Rx inventory drugstores at Walgreens
20 corporate headquarters in Deerfield, Illinois, that
21 she felt the stores needed to justify the large
22 quantity. With regard to one particular store in
23 Port Richey, she noted that respondent had shipped
24 this store 3,271 bottles of 100-count 30-milligram

1 oxycodone, over 300,000 dosage units, in the 40-day
2 period from 12/1/10 to 1/10/11."

3 Do you see that?

4 A. Yes.

5 Q. Do you agree that's a significant number
6 of oxycodone pills?

7 A. Yes, that's a significant number of
8 oxycodone pills.

9 Q. "It caused her to question how they can
10 even house this many bottles. She then inquired of
11 the same corporate manager, how do we go about
12 checking the validity of these orders."

13 Do you see that?

14 A. Yes.

15 Q. Okay. And I guess -- I -- I believe that
16 you told me there had been a handful of occasions
17 where you had done something similar as follows -- as
18 far as calling Barb Martin and asking her about
19 specific orders that came in, correct?

20 A. Correct.

21 Q. Okay. And as far as you know -- well --
22 well, first, let me ask you this: No. 1, you never
23 took the step of identifying and reporting to the DEA
24 those orders as being suspicious, correct?

1 A. Correct, I did not report.

2 Q. You never directed anybody to report those
3 orders to the DEA as suspicious, correct?

4 A. Correct.

5 Q. Okay. As far as -- as you sit here today,
6 you can't remember Ms. Martin ever telling you not to
7 fill one of those orders, correct?

8 A. Correct.

9 Q. Okay. And as you sit here today, you
10 don't know that any of those orders that you called
11 Ms. Martin about were ever reported to the DEA as
12 suspicious, is that fair?

13 A. I wouldn't know that because I wasn't the
14 one that did it, but that would be fair, yeah.

15 Q. And, in fact, based on your memory, all of
16 those orders would have been filled?

17 MS. SWIFT: Object to the form, foundation.

18 BY THE WITNESS:

19 A. All of the orders that I called her on, do
20 you mean? Yeah, correct.

21 BY MR. GADDY:

22 Q. Okay. Paragraph B goes on to say:

23 "Despite having raised these concerns from
24 the distributor to a supervisor at corporate

1 headquarters, none of these orders were reported as
2 suspicious and there appears to have been no other
3 inquiry conducted into the circumstances of the
4 enormous amount of narcotics being shipped to that
5 particular store in Port Richey, a town of less than
6 3,000 people in a county with a population of
7 approximately 475,000 people."

8 Do you see that?

9 A. Yes.

10 Q. It goes on to say that:

11 "Despite the fact that the distribution
12 center" -- "center manager had raised questions about
13 this store's ordering volume to a corporate manager in
14 January of 2011, the very next month, Walgreens filled
15 and shipped orders totalling another 285,000 dosage
16 units of 30-milligram oxycodone to the same pharmacy."

17 Do you see that?

18 A. Yes.

19 Q. It says:

20 "Again, there is no evidence of any due
21 diligence conducted by Walgreens or anyone else within
22 their corporation to verify the legitimacy of these
23 orders in order to fulfill their obligation to
24 maintain effective controls against diversion."

1 Do you see that?

2 A. Yes.

3 Q. Okay. You've told us several times today
4 that you acted on the assumption or the belief that
5 there were other units at corporate or otherwise that
6 were doing some other type of analysis or
7 investigation or -- or due diligence.

8 Is that -- is that fair?

9 A. Yes.

10 Q. Okay. When you look at the increase of
11 orders that we looked at on that chart that showed
12 the -- the huge, the -- the spikes of 500 up to
13 2,000 percent over a two-year period --

14 A. Uh-huh.

15 Q. -- and when you read about these issues
16 where -- where Kristine is saying, How do they even
17 house this many bottles on the shelves and yet the
18 orders were getting filled, does that give you cause
19 for concern about what, if anything, actually was
20 happening at a corporate level or -- or behind the
21 scenes that you were assuming or believing may have
22 been happening?

23 A. Well, the increase in the number of pills,
24 I believe, was influenced by the -- the change in a

1 state law in Florida, if I understand correctly.

2 So we would have gotten more of those
3 opioid orders than we did prior because they changed
4 the law, if -- if I'm correct. So the volume that it
5 increased I have some understanding of why that might
6 have happened.

7 As far as her bringing these things up and
8 them not -- what -- how are they saying that in here?
9 Whatever they said in here. Oh, there is no evidence
10 of any due diligence, I guess the only thing I would
11 say is that I would think they would have jumped on
12 something a little quicker or done something quicker.
13 I'm sure they were doing something in response to all
14 of this, but it may not be apparent to you, I or
15 anyone else, but I don't believe they would have just
16 sat there and done nothing.

17 Q. Okay. So even after --

18 A. It is just not who they are.

19 Q. Even after --

20 (Reporter clarification.)

21 BY THE WITNESS:

22 A. It is just not who they are.

23 BY MR. GADDY:

24 Q. Okay. So even after seeing the large

1 spikes from '09 to '010 to '11 --

2 A. Uh-huh.

3 Q. -- and even after seeing that some of
4 these concerns raised by Kristine, who is your
5 equivalent in a different distribution center --

6 A. Right.

7 Q. -- and the orders continue to be shipped
8 and continue to be shipped in -- in high volumes, you
9 still believed that there was something else going
10 behind that was designed to stop this?

11 A. I do believe there was something there.
12 Maybe it wasn't working, but I believe there was
13 something there, yes.

14 Q. Well, clearly it wasn't working, right?

15 MS. SWIFT: Object to the form, foundation.

16 BY THE WITNESS:

17 A. Right. So what's your -- do you have
18 another question?

19 BY MR. GADDY:

20 Q. I mean, you agree that it clearly was not
21 working? If there was something in place, it clearly
22 was not working if a store like --

23 A. Well, I can't say that because, remember,
24 it's a -- my understanding was, it was based on

1 history, previous order -- previous sales, inventory
2 which, you know, one store a hundred would be normal,
3 maybe another store 20 would be normal.

4 Q. Can you think of any situation in which --

5 A. So how could I --

6 MS. SWIFT: Are you finished with your answer?

7 THE WITNESS: Yeah, I am.

8 BY MR. GADDY:

9 Q. Can you think of any situation in which
10 the order history for a particular pharmacy would
11 justify a 2,000 percent increase in 30-milligram
12 oxycodone pills over a two-year period?

13 A. I can't answer that because I didn't have
14 the history of an -- any store, so. I can't answer
15 that.

16 Q. So you referenced a change in the law in
17 Florida.

18 A. Yeah.

19 Q. When did you become aware of any change in
20 the law in Florida that would have justified any --
21 any changes in prescribing habits?

22 A. During my prep for this.

23 MS. SWIFT: Don't tell him anything about our
24 conversations.

1 THE WITNESS: Okay. Okay.

2 BY MR. GADDY:

3 Q. Okay. Back in 2009, 2010, 2011, 2012,
4 heck, all of the way up until 2017 --

5 A. Uh-huh.

6 Q. -- you had no knowledge whatsoever about
7 any -- any change in any laws that would have
8 justified any increase in prescribing habits for any
9 pharmacy in Florida, is that fair?

10 MS. SWIFT: Object to the form, compound, calls
11 for speculation.

12 BY THE WITNESS:

13 A. That would -- that's -- that would -- that
14 sounds fair, yeah.

15 BY MR. GADDY:

16 Q. Okay. And if there was some change in the
17 law that would have increased the prescribing habits
18 or -- or the dispensing, I guess is probably the
19 better way to put it, so if there was some change in
20 the law that would have called for increased
21 dispensing at pharmacies, you would expect to see that
22 at all pharmacies in Florida, correct?

23 MS. SWIFT: Object to the form, foundation.

24 THE WITNESS: Well, no, it would probably depend

1 on their geographic region and how big they were and
2 all of those things, all of those factors.

3 BY MR. GADDY:

4 Q. Well, let me ask it this way: If there
5 was some change in the law that meant that
6 prescriptions were more likely to be dispensed at
7 pharmacies versus at doctors's offices, is there any
8 reason that you know of that Walgreens would get a
9 disproportionate number of those increased
10 prescriptions as opposed to CVSs or Walmarts or
11 Rite Aids or independent pharmacies?

12 MS. SWIFT: Objection; assumes facts not in
13 evidence.

14 BY THE WITNESS:

15 A. The only reason I can think of is that we
16 have more stores, they are on every corner and they
17 are more convenient.

18 BY MR. GADDY:

19 Q. Turn to Page 29 for me, please, of this
20 order to show cause.

21 A. Backwards?

22 Q. Yes, ma'am. In Paragraph 4 is what I'm
23 going to look at.

24 A. Okay.

1 Q. Do you see it says:

2 "Since 2009, Walgreens' Jupiter, Florida
3 distribution center has been the single largest
4 distributor of oxycodone products in Florida."

5 Do you see that?

6 A. Yes.

7 Q. It goes on to say:

8 "At about the same time as the abuse of
9 prescription drugs became an epidemic in Florida,
10 Walgreens' Florida retail pharmacies, supplied by
11 respondent, commanded an increasingly large percentage
12 of the state's growing oxycodone business."

13 Do you see that?

14 A. Yes.

15 Q. It says:

16 "In 2010, only three Walgreens retail
17 pharmacies were in the top 100 purchasers of
18 oxycodone."

19 Do you see that?

20 A. Yes.

21 Q. "In 2011, 38 Walgreens pharmacies made the
22 top 100 and six were in the top ten."

23 Do you see that?

24 A. Yes.

1 Q. And then it says through May of 2012, 44
2 Walgreens pharmacies are in the top 100 oxycodone
3 purchasers.

4 Do you see that?

5 A. Yes.

6 Q. Do you have any explanation for why, if
7 it's a change in the law --

8 A. Uh-huh.

9 Q. -- to make people fill more prescriptions
10 at pharmacies as opposed to doctor's office, why is it
11 only Walgreens pharmacies that are shooting up the top
12 100 list?

13 MS. SWIFT: Objection; lacks foundation, assumes
14 facts not in evidence.

15 BY MR. GADDY:

16 Q. Do you have any explanation for that?

17 MS. SWIFT: Also asked and answered several
18 times.

19 BY THE WITNESS:

20 A. I don't have -- I don't know that it is
21 only Walgreens pharmacies that in -- you haven't
22 listed everyone else.

23 BY MR. GADDY:

24 Q. Well, Walgreens went from three in the top

1 100 --

2 A. Uh-huh.

3 Q. -- to 38 in the top 100 to 44 in the top

4 100.

5 A. Right.

6 Q. Do you see that?

7 A. Yeah, I do.

8 Q. Okay. Do you have any explanation for why
9 it is Walgreens' pharmacies that are surging into the
10 top 100 oxycodone purchasers during this timeframe as
11 opposed to any particular other pharmacies?

12 A. So by your --

13 MS. SWIFT: Objection; mischaracterizes the
14 document.

15 Sorry. Go ahead.

16 BY THE WITNESS:

17 A. So by your question you are saying no
18 other pharmacy chain had this -- had this kind of an
19 increase, is that what you are --

20 BY MR. GADDY:

21 Q. I'm asking you, do you have any
22 explanation for why Walgreens went from 3 to 38 to 44
23 in the top 100?

24 MS. SWIFT: Objection; lacks foundation.

1 BY THE WITNESS:

2 A. Other than the change in the law that I
3 mentioned before, no.

4 BY MR. GADDY:

5 Q. Does that change in the law impact
6 Walgreens differently than any other pharmacy?

7 MS. SWIFT: Objection; lacks foundation.

8 BY THE WITNESS:

9 A. I don't believe it would.

10 BY MR. GADDY:

11 Q. If we go back to where we were on Page 32,
12 and we've read through that Paragraph 12(b) --

13 A. Uh-huh.

14 Q. -- that talked about -- and -- and one of
15 the things that it looks like was being considered by
16 the DEA in here was the -- that all of these pills
17 were going into Port Richey which was a town of, it
18 says, less than 3,000 people.

19 Do you see that?

20 A. Yes.

21 Q. At any point in time did -- did anybody
22 come to you and -- and advise that you or anybody else
23 in the distribution center start looking at or
24 considering population sizes of where these C-IIs were

1 going and whether or not to -- to do any type of
2 follow-up?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. No, because we didn't have that
6 information. That's, again, something I would have
7 expected Barb Martin's group to do or the Rx integrity
8 group to do --

9 BY MR. GADDY:

10 Q. Okay.

11 A. -- because they had the information.

12 Q. Okay. I mean, we looked at some of those
13 e-mails earlier where I think you suggested that Matt
14 use triple digits --

15 A. Uh-huh.

16 Q. -- as kind of a baseline to --

17 A. Um-hum.

18 Q. -- and then -- and then we saw later that
19 it looks like Matt had adopted that.

20 Do you recall that generally?

21 A. Uh-huh, yes.

22 MS. SWIFT: Objection; mischaracterizes the
23 document.

24 BY MR. GADDY:

1 Q. And at any point in time did anybody come
2 to you and say, Look, maybe we need to have lower
3 limits for stores in -- in small towns like Port
4 Richey and maybe the limit there needs to be only ten
5 bottles and -- and we call for anything over ten
6 bottles and then if it's going to -- to -- to a bigger
7 city, like Chicago, that maybe then we can go with a
8 higher lump number like 25 or 30 bottles.

9 Did that ever happen?

10 A. No, but again, I would expect the computer
11 program, because that's my understanding of what that
12 did, was take all of that into consideration. Before,
13 you know what I mean?

14 Q. What does the word "systemic" mean to you?

15 A. Something done by a system as opposed to a
16 human being.

17 Q. Okay. Do you have an understanding of the
18 word "systemic" as meaning throughout or -- or -- or
19 companywide or body wide or -- or anything of that
20 nature?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Oh, not necessarily. Systemic could be
24 our system, someone else's system.

1 Is that what you mean?

2 BY MR. GADDY:

3 Q. Well, turn with me, if you would, please,
4 to Page 38. And I'm going to look at Paragraph 23.

5 Are you with me?

6 A. Uh-huh.

7 Q. It says:

8 "Voluntary dispensing restrictions enacted
9 either in anticipation of or in reaction to regulatory
10 action, do not indicate to me that" -- "that
11 respondent and its parent company have recognized and
12 adequately reformed the systemic shortcomings
13 discussed herein."

14 Do you see that?

15 A. Yes.

16 Q. What does that mean to you in that
17 context?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. In what it says -- what I understand that
21 to say is that the system that was supposed to be --
22 that we had in place to adjust orders based on their
23 geographic location, et cetera, may have needed
24 tweaked, that's what I read that as saying.

1 BY MR. GADDY:

2 Q. Well -- well, you agree it probably needs
3 a little bit more than a tweak based on the fact that
4 they are saying that the operation of the distribution
5 center is in imminent danger of the public health and
6 safety, do you agree with that, it probably needs a
7 little bit more than just a tweak?

8 MS. SWIFT: Objection; foundation.

9 BY THE WITNESS:

10 A. No, because I -- I never saw proof that
11 the imminent danger was -- you know, that's kind of...

12 BY MR. GADDY:

13 Q. Okay. Well, look at the very next page.

14 A. Okay.

15 Q. It says -- it is a paragraph that starts
16 "IN" at the top of the page in all caps and bolds.

17 A. Uh-huh.

18 Q. It says:

19 "IN view of the foregoing and based on the
20 information before the agency as of the issuance of
21 this notice, it is my preliminary finding pursuant to
22 a statute" -- or "two particular statutes, that
23 Walgreens' continued registration is inconsistent with
24 the public interest."

1 Do you see that?

2 A. Yes.

3 Q. If you look at the next page, this is
4 signed by who?

5 A. Michelle Leonhart.

6 Q. And -- and what's her title?

7 A. The administrator of the DEA.

8 Q. Okay. So the DEA is saying that Walgreens
9 continued to be registered to -- to distribute
10 controlled substances is inconsistent with the public
11 interest, correct?

12 A. That's her opinion, yes.

13 Q. Okay. And it goes on to say, if you read
14 through the next paragraph, the second half of that
15 paragraph says:

16 "Respondent's continued registration while
17 these proceedings are pending constitutes an imminent
18 danger to the public health and safety."

19 Do you see that?

20 A. Yes.

21 Q. The same phrase that we saw at the
22 beginning, right?

23 A. Right.

24 Q. It says:

1 "Accordingly, purs" -- "pursuant to
2 certain statutes and regulations and authority granted
3 to the administrator of the DEA, the DEA Certificate
4 of Registration is hereby suspended effective
5 immediately."

6 Do you see that?

7 A. Yes.

8 Q. If you read down in the next paragraph, it
9 says:

10 "The special agents and diversion
11 investigators of the DEA who serve this order to show
12 cause and immediate suspension of registration are
13 authorized to place under seal or remove for
14 safekeeping all controlled substances that Walgreens
15 possesses."

16 Do you see that?

17 A. Yes.

18 Q. Did you have an understanding that the DEA
19 agents actually went in and put a new padlock on the
20 C-II cage there in Jupiter?

21 A. No.

22 Q. Did you know that they restricted the
23 ability of Walgreens to even go in and get the C-IIIs
24 that were in the Jupiter distribution center?

1 A. No.

2 Q. Would you agree that that shows a pretty
3 high level of concern on behalf of the DEA if they put
4 their own padlock on the C-II cage that they won't
5 even let Walgreens go in to where they can get the
6 pills?

7 MS. SWIFT: Objection; foundation.

8 BY THE WITNESS:

9 A. Well, it -- it is clear they were
10 concerned or they wouldn't be using this language.
11 So, yeah, that would show that they were concerned,
12 yeah.

13 BY MR. GADDY:

14 Q. And -- and based on what we've read in
15 this document, would you agree that they had good
16 reason to be concerned?

17 A. I'm not really convinced of that because
18 I -- I am not knowledgeable enough in, you know, the
19 whole -- the whole -- the whole country's infatuation
20 with oxycodones all of a sudden. I just -- I -- I
21 couldn't answer that and feel good about that. I
22 can't -- I can't say I agree with them because I don't
23 know enough information. I don't know what the
24 program was doing, what it wasn't doing. I don't have

1 any of that information, so...

2 Q. If you had called Barb Martin or somebody
3 else equivalent to her --

4 A. Uh-huh.

5 Q. -- like Kristine did, and had told her
6 that I think these stores need to justify these
7 orders, we've sent them over 3,000 orders over a
8 40-day period --

9 A. Uh-huh.

10 Q. -- 3,000 bottles over a 40-day period --

11 A. Uh-huh.

12 Q. -- I don't even understand how they are
13 housing all of these bottles on the shelf, if you had
14 expressed concern like that to corporate and nothing
15 happened, the pills were shipped, they weren't
16 reported to the DEA, and in the following months you
17 continued to ship them hundreds of thousands of pills,
18 would that have concerned you?

19 MS. SWIFT: Object to the form, mischaracterizes
20 the facts.

21 BY THE WITNESS:

22 A. What that would have done was have me call
23 them again and say, What have you done so far. I know
24 they would have done something.

1 BY MR. GADDY:

2 Q. You would have taken some action --

3 A. In my opinion.

4 Q. Oh, I'm sorry.

5 A. No, I was just saying my opinion is they
6 had to be doing something. Just because I wasn't
7 privy to that -- what they were doing doesn't mean
8 they weren't doing anything, so I would have called
9 again.

10 Q. Well, you agree that what we've looked at
11 shows that -- that nothing was done?

12 MS. SWIFT: Objection; mischaracterizes the
13 facts.

14 BY THE WITNESS:

15 A. Well, I don't know which -- which things
16 we looked at you are referring to, but the fact that
17 they were shipped again, is that what you are
18 referring to?

19 BY MR. GADDY:

20 Q. I'm asking you whether or not we've read
21 anything in here --

22 A. Uh-huh.

23 Q. -- that said that Walgreens took any
24 action, any action whatsoever to prevent or stop pills

1 going to this store that Kristine, the C-II function
2 manager, was calling and saying, they need to justify
3 these. They don't have room on the shelves for these
4 pills.

5 A. Uh-huh.

6 Q. Have you seen anything that says that
7 Walgreens corporate did anything to stop or slow down
8 pills going to that store?

9 MS. SWIFT: Object to the form of the question.

10 Do you mean anything in this legal
11 document, is that what you are asking her?

12 MR. GADDY: The question is clear.

13 MS. SWIFT: Object to the form of the question.
14 It's vague, mischaracterizes the facts in evidence.

15 BY THE WITNESS:

16 A. So I'm sorry. You are going to have to
17 ask me again now.

18 BY MR. GADDY:

19 Q. Sure.

20 I'm asking you whether or not anything
21 that we've looked at --

22 A. Uh-huh.

23 Q. -- anything that we've read, shows that
24 Walgreens took any action whatsoever in response to

1 Kristine's concerns that she read --

2 MS. SWIFT: Objection; same -- same objections
3 and also lack of foundation.

4 MR. GADDY: I'll have -- can I finish my
5 question before you object, please?

6 MS. SWIFT: Sure. I thought you were done.

7 BY MR. GADDY:

8 Q. Is there anything that we've looked at,
9 anything that we've read --

10 A. Uh-huh.

11 Q. -- in this document --

12 A. Uh-huh.

13 Q. -- that shows that Walgreens corporate did
14 anything whatsoever to stop or limit oxycodone pills
15 going to this particular store after Kristine raised
16 issues saying, I think they need to justify these
17 orders --

18 A. Uh-huh.

19 Q. -- I don't even think they can house these
20 many bottles on the shelf, we've already sent them
21 3,000 bottles over the last 40 days, have you seen
22 anything that shows that anybody at corporate did
23 anything to stop or limit pills going to that store?

24 MS. SWIFT: Objection to the form of the

1 question, it lacks foundation.

2 BY THE WITNESS:

3 A. Well, I wouldn't expect to see anything
4 because this is a DEA document and they are not trying
5 to support that we did anything. They are trying to
6 just, you know, show that we did not.

7 BY MR. GADDY:

8 Q. So -- so the answer to my question is
9 no --

10 MS. SWIFT: Objection; asked and --

11 BY MR. GADDY:

12 Q. -- you didn't see anything?

13 MS. SWIFT: -- asked and answered.

14 BY THE WITNESS:

15 A. Either way, that we did or did not, it
16 could go either way.

17 BY MR. GADDY:

18 Q. Okay. The answer to the question is no,
19 you didn't see anything in here about anything that
20 corporate did to slow down pills to that store?

21 MS. SWIFT: Objection; asked and answered.

22 BY THE WITNESS:

23 A. I wouldn't know what corporate was doing.

24 I don't know what they were doing in response to her.

1 I don't know what they were doing.

2 BY MR. GADDY:

3 Q. Have you seen anything? I'm not asking
4 what you know. I'm asking have you seen anything in
5 this document that we reviewed that corporate did
6 anything to limit or restrict pills going to that
7 particular store that Kristine was repeatedly raising
8 issues about?

9 MS. SWIFT: Objection; asked and answered.

10 BY THE WITNESS:

11 A. Not in this document, no.

12 BY MR. GADDY:

13 Q. Thank you.

14 Okay. So we've looked at some of the
15 information here in the order to show cause. Let's go
16 back to the front and look at some of the information
17 in the settlement agreement.

18 So if you can just flip back to Page 1.
19 And actually flip one time to Page 2. And do you see
20 about two-thirds of the way down the page there is the
21 section that starts Stipulation and Agreement,
22 correct?

23 A. Correct.

24 Q. Okay. It says there in the second

1 paragraph, it says:

2 "Walgreens acknowledges that suspicious
3 order reporting for distribution to certain pharmacies
4 did not meet the standards identified by DEA in three
5 letters from DEA's administrator" -- excuse me --
6 "DEA's deputy assistant administrator, Office of
7 Diversion Control," and then it lists that three
8 letters, and one of those is the December 2007 letter
9 that you received, correct?

10 A. Correct.

11 Q. Did anybody from Walgreens ever tell you
12 that they acknowledged that their suspicious order
13 reporting did not meet DEA standards?

14 MS. SWIFT: Objection; mischaracterizes the
15 document.

16 BY THE WITNESS:

17 A. No.

18 BY MR. GADDY:

19 Q. Now, if you go to the next page, and we
20 are still under the Stipulation and Agreement, Roman
21 numeral No. I says "General," correct?

22 A. Correct.

23 Q. And the first paragraph talks about the
24 intent to effect a settlement, but let's go down to

1 Paragraph II where it says "Covered Conduct."

2 Are you with me?

3 A. Yes.

4 Q. And it says:

5 "For the purposes of this agreement,
6 covered conduct shall mean the following," and then
7 it -- it lists -- it has some lists below there,
8 correct?

9 A. Correct.

10 Q. And the first section deals with
11 distribution centers.

12 Do you see that?

13 A. Yes.

14 Q. The first item says:

15 "Conduct alleged in the September 13th,
16 2012 order to show cause issued to Walgreens Dupe" --
17 "Jupiter in DEA's filing," it is referencing the order
18 to show cause that we looked at just a minute ago.

19 Do you see that?

20 A. Yes.

21 Q. And it -- and it is indicating that that
22 conduct in there is covered by this settlement
23 agreement.

24 Does that -- do you -- does that make

1 sense to you?

2 MS. SWIFT: Object to the form.

3 BY THE WITNESS:

4 A. I guess. Kind of.

5 BY MR. GADDY:

6 Q. Okay. Well, let's go to the second
7 paragraph and see what other conduct is covered by
8 this settlement agreement.

9 A. Okay.

10 Q. It says:

11 "Failure regarding any distribution
12 center."

13 Do you see that?

14 A. Um-hum. Yes.

15 Q. So you understand that that's not limited
16 to Jupiter, right?

17 MS. SWIFT: Object to the form.

18 BY THE WITNESS:

19 A. Yes.

20 BY MR. GADDY:

21 Q. Okay.

22 A. I see that.

23 Q. It says:

24 "Failure regarding any distribution center

1 to maintain effective controls against the diversion
2 of controlled substances into other than legitimate
3 medical, scientific and industrial channels, as
4 required by that particular statute."

5 Do you see that?

6 A. Yes.

7 Q. It goes on to say:

8 "Including any failures to conduct
9 adequate due diligence to ensure that controlled
10 substances were not diverted into other than
11 legitimate channels, on or before the effective date
12 of this agreement."

13 Do you see that?

14 A. Yes.

15 Q. Did anybody from Walgreens ever come and
16 tell you that this settlement agreement that was
17 entered into by Walgreens with the DEA covered conduct
18 within the Perrysburg distribution center?

19 A. No.

20 Q. Did anybody from Walgreens ever tell you
21 that there was going to have to be a change or an
22 amendment or an edit or -- or even a tweak, as you've
23 said, to the suspicious order monitoring policies and
24 procedures as a result of this settlement with the

1 DEA?

2 A. No, not to my recollection.

3 Q. And -- and you were the C-II function
4 manager at Perrysburg during this timeframe, correct?

5 A. Correct.

6 Q. The only person higher than you with any
7 C-II responsibilities would have been the manager of
8 the entire distribution center, right?

9 A. Right.

10 Q. Okay. If you look at Paragraph 3, it
11 says: "Failure regarding any distribution center."
12 Do you see, again, that's any distribution
13 center?

14 A. I don't know where you are at.

15 Q. I'm sorry. I'm at the top of Page 4.

16 A. Oh, okay. Okay. I've gotcha.

17 Q. Are you with me?

18 A. Yes.

19 Q. It says:

20 "Failure regarding any distribution center
21 to" -- "to timely detect and report suspicious orders
22 of controlled substances."

23 Do you see that?

24 A. Yes.

1 Q. Okay. Again, did anybody tell you that
2 there was now a settlement agreement in place between
3 DEA and Walgreens that applied to not only Jupiter but
4 also Woodland's and the Perrysburg distribution
5 centers regarding timely detecting and reporting of
6 suspicious orders?

7 A. Not that I recall.

8 Q. Okay. Anything about the answers you just
9 gave me to the previous paragraph that you would
10 change as it relates to this paragraph?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. I don't understand what you are asking me.

14 BY MR. GADDY:

15 Q. Sorry. I was trying not to ask the same
16 four questions again.

17 A. Oh.

18 Q. You, in your position as the C-II function
19 manager, nobody came and told you that, Hey, we've
20 entered a settlement with the DEA regarding some of
21 these allegations and we've got to change the way we
22 do things regarding controlled substances.

23 Is that fair, that never happened?

24 MS. SWIFT: Object to form.

1 BY THE WITNESS:

2 A. No one came and told me personally, no.

3 BY MR. GADDY:

4 Q. Did -- did you receive information that
5 that was happening through any other channel?

6 MS. SWIFT: Object to the form.

7 BY THE WITNESS:

8 A. Not that I recall.

9 BY MR. GADDY:

10 Q. If you look at Paragraph 7, it says:

11 "Conduct regarding any distribution center
12 that's inconsistent with the CSA," which is the
13 Controlled Substances Act, "and it's implementing
14 regulations on or before the date of this agreement."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And, again, nobody came to you and
18 said that because there are these allegations that we
19 are operating inconsistent with the Controlled
20 Substances Act there's going to be any types of -- of
21 changes or amendments or edits to the policies,
22 procedures or practices at Walgreens, fair?

23 A. Fair.

24 Q. Did you ever have the opportunity to train

1 or educate your staff, you know, your SAIL
2 coordinator, I think we have -- you have team members
3 that help you pick and work in the vault, things like
4 that, did you ever have the opportunity to, after this
5 order to show cause and settlement agreement came out
6 late in 2012, early 2013, to train or educate them on
7 any new processes or procedures that they needed to do
8 to be in compliance with the settlement agreement?

9 A. Not that I recall.

10 Q. If you'd flip for me, please, to Page 7 of
11 349.

12 Near the top of the page do you see it
13 says: "Walgreens General Obligations"?

14 A. Yes.

15 Q. And do you see Paragraph C underneath
16 there?

17 A. Yes.

18 Q. Do you see it says: "Walgreens agrees to
19 pay the United States \$80 million"?

20 A. Yes.

21 Q. Do you agree with me that that's a
22 significant amount of money for Walgreens to pay to
23 the United States?

24 A. That's a significant amount of money,

1 period, for anyone to pay to anyone, yes.

2 Q. Why do you think the settlement had to be
3 such a significant amount of money?

4 MS. SWIFT: Objection; foundation.

5 BY THE WITNESS:

6 A. I have no idea.

7 BY MR. GADDY:

8 Q. Do you think that has anything to do with
9 the significance of the allegations?

10 MS. SWIFT: Objection; foundation.

11 BY THE WITNESS:

12 A. I really have no idea where they get them
13 from.

14 BY MR. GADDY:

15 Q. Do you see right below that it says:
16 "Obligations of the DEA"?

17 A. Let me find it.

18 "Within ten days of the effective date,"
19 is that where you are talking?

20 Q. I was just talking about the heading.

21 A. Oh, down here. Oh, okay. Yeah. Yes, I
22 see that.

23 Q. Do you see Paragraph B, it says:

24 "Within five business days of the

1 effective date of this agreement, DEA agrees to unlock
2 the controlled substances storage area at Walgreens
3 Jupiter and make its contents available to Walgreens."

4 Do you see that?

5 A. Yes.

6 Q. So as components of this obligation -- or
7 excuse me. Components of this settlement agreement
8 not only included Walgreens having to pay \$80 million,
9 but it also allow for the DEA to unlock and take the
10 padlock off the -- the C-II case that they had put on.

11 Do you see that?

12 A. Yes.

13 Q. Turn with me, please, to -- it is Page 14.

14 We've gone through some of the original
15 terms and conditions of the settlement agreement, but
16 do you see the top of this page is labeled "Addendum"?

17 A. Yes.

18 Q. And it says in the first sentence there:

19 "The parties agree that Walgreens will
20 maintain the following specific compliance measures
21 for the duration of this agreement."

22 Do you see that?

23 A. Yes.

24 Q. And it says under A1 that:

1 "Walgreens will maintain a department of
2 pharmaceutical integrity, composed of personnel with
3 pharmacy-related training and managerial personnel,
4 who shall be trained in relevant diversion-related
5 issues."

6 Do you see that?

7 A. Yes.

8 Q. Did you have an understanding that the
9 main -- maintenance and the -- the existence of a --
10 the pharmacy integrity unit came out of the settlement
11 agreement?

12 A. No, I was not aware of that.

13 Q. Can you flip back in your stack for me and
14 pull out No. 10. I'm sorry. Document No. 10, Exhibit
15 No. 10.

16 A. Exhibit 10 -- oh, I don't know where that
17 is.

18 Q. It's the -- the e-mail from Tasha Polster.

19 A. Oh, the exhibit. Gotcha. That was way
20 back.

21 Q. I know. I'm sorry.

22 A. That's all right.

23 I have 9, 11 and 12. Oh, here it is.

24 Okay.

1 Q. See, this e-mail from Tasha, the one in
2 the middle of the page dated June 19th, 2013?

3 A. Yes.

4 Q. And the subject is: "Rx integrity team
5 and DEA agreement."

6 Do you see that?

7 A. Yes.

8 Q. And she says:

9 "For those of you who don't know me, I
10 would like to introduce myself and my team. My name
11 is Tasha Polster and I am the director of
12 pharmaceutical integrity."

13 Do you see that?

14 A. Yes.

15 Q. Did you lose your page of where we were in
16 the -- in the settlement agreement?

17 A. No, I don't think so.

18 Q. Okay. Good. Flip back --

19 A. I think I kept it in there.

20 Q. Flip -- flip back --

21 A. 15?

22 Q. -- to Page 11.

23 A. Oh, well, I guess I did then.

24 Okay.

1 Q. Do you see the date that this agreement
2 was signed by Walgreens?

3 A. Yes.

4 Q. What was that date?

5 A. June 10th.

6 Q. 2013?

7 A. '13, um-hum.

8 Q. Okay. And the time that you get this
9 first e-mail from the pharmaceutical integrity team
10 where they are introducing themselves to you is
11 June 19th, 2013, correct?

12 A. Correct.

13 Q. Does that timing make a little bit more
14 sense now that you see this paragraph on Page 14
15 talking about the requirement that the pharmaceutical
16 integrity team be in existence as a part of this
17 agreement?

18 MS. SWIFT: Object to the form.

19 BY THE WITNESS:

20 A. Yeah, that makes sense.

21 BY MR. GADDY:

22 Q. If you look at Item No. -- or Paragraph
23 No. 6 on Page 15.

24 A. Okay.

1 Q. It says -- again, this is more of the
2 addendum to this agreement, correct?

3 A. Correct.

4 Q. It says:

5 "Beginning in 2014, Walgreens will exclude
6 any accounting for controlled substance prescriptions
7 dispensed by a particular pharmacy from bonus
8 computations for pharmacists and pharmacy technicians
9 at that pharmacy."

10 Do you see that?

11 A. Yes.

12 Q. As the C-II function manager, did you have
13 an awareness that pharmacists were being bonused based
14 on how many controlled substance prescriptions they
15 filled?

16 A. No.

17 Q. Do you see any potential conflict of
18 interest with a potential policy like that?

19 MS. SWIFT: Objection to form.

20 BY THE WITNESS:

21 A. Well, first of all, let me say I think our
22 pharmacists probably have the highest integrity, but I
23 have to because I believe in this company. I don't
24 think any pharmacist would go so far as to make up a

1 prescription to get a bigger bonus, you know what I
2 mean. I don't think they'd do that.

3 BY MR. GADDY:

4 Q. Okay. I understand that you -- you are
5 certainly proud to work for Walgreens.

6 A. Uh-huh.

7 Q. Okay. You've been working for Walgreens
8 for 17 years?

9 A. A long time, yeah.

10 Q. Okay. You have a lot of history with
11 them, correct?

12 A. Yeah.

13 Q. Okay. And, but in fairness, there's over
14 8,000 Walgreens stores, right?

15 A. Right now I'm not sure how many there are,
16 but, yeah, at least that.

17 Q. Okay. You haven't even come close to
18 meeting all of the pharmacists --

19 A. No.

20 Q. -- that Walgreens employs, do you,
21 correct?

22 A. That's correct.

23 Q. Okay. And many stores -- or I'll assume
24 most stores employ multiple pharmacists, correct?

1 A. Correct, yeah.

2 Q. And you're not trying to say that you can
3 sit here today and testify to the character or
4 behavior patterns of all of the pharmacists that
5 Wal -- Walgreens performs, can you -- employs, not
6 performs, sorry?

7 A. Yeah.

8 No, I'm not testifying that. I'm just
9 saying that I can't imagine we would hire, or whoever
10 is responsible for hiring at Walgreens, hiring,
11 picking, interviewing the pharmacists, would bring
12 people on that didn't have integrity. I just -- I
13 don't see that happening.

14 Q. You didn't, by any chance, see the article
15 that was published yesterday that talked about the
16 Walgreens' pharmacist that had to quit because after a
17 decade they realized they weren't licensed?

18 A. No.

19 Q. Okay.

20 A. I did not see that.

21 Q. Well, then I won't ask you about it.

22 MS. SWIFT: It never stopped you before.

23 MR. GADDY: Hmm?

24 MS. SWIFT: Never mind.

1 BY MR. GADDY:

2 Q. Let me show you this document. I'll mark
3 this as No. 21. This is P-WAG 2709. I'll give this
4 to you.

5 (WHEREUPON, a certain document was
6 marked Walgreens - Bish Deposition
7 Exhibit No. 21, for identification,
8 as of 02/01/2019.)

9 BY MR. GADDY:

10 Q. And do you see this is another e-mail
11 chain from with -- from within Walgreens?

12 A. Um-hum, yes.

13 Q. And let's -- let's start at the -- the
14 beginning of the chain and you'll come into play after
15 a few e-mails, but if you turn to the second-to-last
16 page, there is a 4/16/12 e-mail from a particular
17 pharmacy manager and the subject line is: "C-II
18 orders."

19 Do you see where I am, at the very bottom
20 of the page?

21 A. Oh, 4/16, okay.

22 Q. Are you with me?

23 A. Yes.

24 Q. And it says:

1 "Elaine, can you help me increase my
2 orders on narcotics? Every time I order narcotics,
3 very little comes in. We are losing scripts because
4 of this. For example, I ordered 30 bottles of
5 oxycodone 30-milligrams. Only three bottles came in
6 today."

7 Do you see that?

8 A. Yes.

9 Q. And if you go up to the next e-mail in the
10 chain, it looks like Elaine reaches out to you. It
11 says:

12 "Hello Deb, can you assist on this issue?"

13 Correct?

14 A. Correct.

15 Q. And if you go up to the next e-mail on the
16 chain, it looks like you do what you told us you do
17 from time to time and reach -- reached out to
18 Barb Martin, correct?

19 A. Correct.

20 Q. You say:

21 "Barb, how do we compensate for stores in
22 the situation below? It looks like for this
23 particular store there was a buyout."

24 A. Correct.

1 Q. And -- and is that in layman's terms where
2 two pharmacies kind of combine into one?

3 A. Well, it is where we take over an already
4 existing pharmacy, like a little independent --

5 Q. Okay.

6 A. -- so they have an inventory already but
7 it may not be sufficient to fill our customers.

8 Q. Understood. Thank you.

9 So you raise the issue to Barb there,
10 correct?

11 A. Yes.

12 Q. If you go to the -- flip to the bottom of
13 the next page, we see Barb's response, and she says:

14 "DEA regulations require all distributors
15 of controlled substances to systematically review and
16 modify orders based on sales patterns. The orders are
17 being modified as the store is making dramatic changes
18 to the suggested order quantity. One of our DCs in
19 Florida and several stores are currently under
20 investigation for high purchases of C-II medications."

21 Do you see that?

22 A. Yes.

23 Q. And, again, that is consistent with the
24 timeframe, this April of 2012 when the DEA was looking

1 into the activity of the Jupiter?

2 A. Um-hum.

3 Q. She goes on to say:

4 "I would request the store not make any
5 more changes to their C-II order."

6 Do you see that?

7 A. "Not make any changes," yeah.

8 Q. If you go back -- if you go up to the next
9 e-mail, it looks like Elaine reaches out to Josephine
10 Kramer.

11 Do you see that?

12 A. Yep.

13 Q. Do you know who that is?

14 A. No.

15 Q. She says:

16 "Josie, I need your insight, pharmacy is
17 trying to order enough C-IIIs to fill the increased
18 volume from the buyout. Unfortunately, they are
19 having to turn patients away due to the warehouse not
20 send enough of a supply. This is going" -- "this is
21 significantly going to impact the store's retention of
22 scripts from Jersey Shore and possibly the bonus tied
23 to Mark. Can you assist?"

24 Do you see that?

1 A. Yes.

2 Q. Do you see there where there are
3 situations where even getting controlled substances
4 into the store was -- was an issue as it related to
5 impacting the potential bonus for a pharmacist?

6 A. Well, who is Elaine Lee first of all? Is
7 that a pharmacist, a pharmacy manager, a pharmacy
8 tech, who is that? Do you know?

9 Q. I don't know. I can't tell you.

10 A. Yeah, I don't know who it is either.
11 Well, the pharmacy manager of that store e-mailed
12 Elaine Lee. I just don't know who that is.

13 Q. Regardless, there has been a concern
14 raised about controlled substances getting to the
15 store and a concern about if they don't get there it
16 might impact somebody's bonus?

17 A. Correct. I'm trying to determine if that
18 person writing that would have that knowledge or is
19 just talking, you know.

20 Q. Well, regardless of what knowledge they
21 have, the concern about a bonus being impacted by
22 controlled substances not getting to the store is
23 being raised.

24 Do you agree with that?

1 A. It is being raised, correct.

2 Q. Okay. And again, I know that you said
3 that you -- you -- you want to believe that the
4 Walgreens' pharmacists are good people and that
5 Walgreens would only hire good people, but do you see
6 how there could be a potential conflict of interest if
7 pharmacists receive bigger bonuses if they dispense
8 more controlled substances?

9 And if you don't, that's fine. I'm just
10 asking if you see how that could be a conflict of
11 interest.

12 A. I can see that this person feels that can
13 be a conflict. I mean, this person is clearly
14 bringing that up. I just don't know who this person
15 is, which bothers me a little bit, but...

16 Q. It is an issue that's being raised and
17 maybe it is an issue in your mind that shouldn't come
18 into play when we are talking about dispensing drugs
19 that I think, as you put it earlier, have a high
20 street value?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. Right.

24 BY MR. GADDY:

1 Q. All right. Let's go back and look at a
2 little bit more in this settlement agreement and then
3 we'll be done with that document.

4 If we go to Page 16. So we are still in
5 this -- if you flip back, do you see we are still in
6 this addendum to the settlement agreement?

7 Do you see that?

8 A. Um-hum, yes.

9 Q. And the first section that we looked at
10 was General, the second was Pharmacies, and this last
11 section, Section C, is related to distribution
12 centers, correct?

13 A. Correct.

14 Q. Okay. Under No. 1, do you see where it
15 says:

16 "Within a week of the effective date of
17 the agreement, Walgreens" -- excuse me -- "will
18 designate a DEA contact point in its department of
19 pharmaceutical integrity to address inquiries
20 regarding suspicious order monitoring and reporting.
21 At least one existing employee at each Walgreens
22 distribution center that distributes controlled
23 substances will receive appropriate training on
24 suspicious order monitoring requirements and on

1 reporting relevant issues to the department of
2 pharmaceutical integrity."

3 Do you see that?

4 A. Yes.

5 Q. Okay. So do you see there in that last
6 phrase, it says:

7 "At least one person at each Walgreens DC
8 that distributes controlled substances must receive
9 appropriate training on suspicious order monitoring."

10 Do you see that?

11 A. Yep.

12 Q. Okay. Did you receive such training?

13 A. Not that I recall.

14 Q. Okay. All right. I'm back on No. 10
15 again, the e-mail from Tasha Polster.

16 A. Okay.

17 Q. About a week after this was signed,
18 June 19th, 2013.

19 Do you see that?

20 A. Uh-huh, yes.

21 Q. We went through the first paragraph of
22 that -- of her e-mail where she is introducing folks.
23 The second paragraph she says:

24 "The" -- "the distribution center

1 controlled substance contact personnel spreadsheet has
2 the name that Sue gave me who is responsible for
3 reading the distribution center suspicious order
4 monitoring policy and procedure. I need documentation
5 of one person in each distribution center."

6 Do you see that?

7 A. Yes.

8 Q. And -- and that's fairly consistent with
9 what we just read that would be required, right?

10 A. Right.

11 Q. But I think you said you don't remember --
12 you don't recall ever getting any training on
13 suspicious order monitoring, right?

14 A. No, I don't remember getting it.

15 Q. Do you know if anybody in Perrysburg ever
16 did?

17 A. No, I don't know if it -- if anybody in
18 Perrysburg ever did. I don't re -- they could have
19 trained maybe the SAIL coordinator, but I don't recall
20 that.

21 Q. As -- as the person who knows more about
22 C-IIs in the distribution center than anybody else,
23 did the SAIL coordinator or anybody else ever come to
24 you and say, Hey, I am now your source for suspicious

1 order monitoring questions because I've received this
2 training?

3 MS. SWIFT: Object to the form.

4 BY THE WITNESS:

5 A. Not that I recall.

6 BY MR. GADDY:

7 Q. Do you agree that -- that it -- it seems
8 to me, and tell me if I'm wrong, it occurs to me that
9 you would have been the most appropriate person to get
10 the suspicious order monitoring training seeing as
11 you're the buck-stops-here person when it comes to
12 Schedule II drugs?

13 Does that make sense to you?

14 A. No. I would think the SAIL coordinator
15 would get it.

16 Q. Okay. Did the SAIL coordinator -- and who
17 would have been your coordinator in this period of
18 time, would it have been Lori or Brook?

19 A. I've already said I don't remember who
20 served when. I just know those were the three people
21 that were my -- a SAIL coordinator at one time or
22 another. Chad was the last one.

23 Q. Okay.

24 A. But I don't know what years each of the

1 other two were there.

2 Q. Okay.

3 A. So I don't know.

4 Q. In the last paragraph, Tasha goes on to
5 state:

6 "It has been a long year-and-a-half
7 getting this DEA settlement in place. We want to
8 ensure we have proper documentation and accountability
9 for this compliance piece."

10 Do you see that?

11 A. Um-hum.

12 Q. Do you know that -- a year-and-a-half from
13 '13 is early '12.

14 Do you agree with that?

15 A. Yes.

16 Q. Did -- did you know there had been
17 discussions going on with the DEA all of the way back
18 to early '12 about a settlement agreement?

19 A. No.

20 Q. Nobody ever asked for your input?

21 A. No, not that I recall.

22 Q. I got a little sidetracked, but you saw
23 up at -- two paragraphs up it said the DC contact
24 personnel spreadsheet has the names of who's

1 responsible --

2 A. Uh-huh.

3 Q. -- for the -- for the suspicious order
4 monitoring policy and procedure.

5 Do you see that?

6 A. Yes.

7 Q. Turn to the last page of this document for
8 me, please.

9 And do you see a spreadsheet with the
10 distribution centers on it?

11 A. Um-hum, yes.

12 Q. And who is entered for Perrysburg?

13 A. Myself and Tammy Trumbull.

14 Q. Okay. And you don't ever remember getting
15 any training on the suspicious order monitoring,
16 right?

17 A. Right.

18 Q. Do you know whether or not Tammy ever got
19 any training on suspicious order monitoring?

20 A. I would have no way of knowing.

21 Q. And, in fact, if you look to the right,
22 the second column from the right is the date that
23 training was done?

24 A. Yes.

1 Q. Okay. And there is no date entered for
2 you and no date entered for Tammy, right?

3 A. Right.

4 Q. And the SAIL coordinators aren't even
5 listed on here, are they?

6 A. No.

7 Q. But this --

8 A. Well, ours aren't. I don't know about the
9 other locations.

10 Q. Sure. That's fair.

11 A. Actually, Susan Day is on there and she is
12 the SAIL coordinator --

13 Q. Okay.

14 A. -- for Woodland.

15 Q. There is no Perrysburg SAIL coordinator
16 listed on here, correct?

17 A. Correct.

18 Q. Okay. It looks like some other folks had
19 had their training done, but at -- at least as of this
20 date neither you nor Tammy had?

21 A. That's what it appears.

22 Q. And as far as you know, you never had any
23 training done on suspicious order monitoring, correct?

24 A. Not that I recall.

1 Q. All right. Same page -- sorry, I lost my
2 spot.

3 Page 16. And I'm on C-II now.

4 A. Okay.

5 Q. It says there:

6 "For the purpose of complying with
7 suspicious order monitoring and reporting requirements
8 for orders to be supplied by a Walgreens distribution
9 center, Walgreens will maintain the tolerance
10 threshold, ceiling limits, and other elements of its
11 current suspicious order monitoring and reporting
12 system."

13 Do you see that?

14 A. Yes.

15 Q. And I -- I think I've asked you generally
16 about those terms and you've told me that you heard --
17 heard them but really don't have a detailed
18 understanding of what that means in the context of the
19 suspicious order system, right?

20 A. Right.

21 Q. Okay. And it says:

22 "Those must be in place either for the
23 duration of this agreement or until Walgreens
24 distribution activities are transitioned to a third

1 party."

2 Do you see that?

3 A. Yes.

4 Q. Were you aware that when this agreement
5 was executed that Walgreens was already discussing
6 getting out of the distribution business and
7 outsourcing those activities to a third party?

8 A. No, I wasn't aware of that.

9 Q. But regardless, that's what happened with
10 the --

11 A. We did --

12 Q. -- AmerisourceBergen, correct?

13 A. We did outsource it eventually, yes.
14 Uh-huh.

15 Q. Do you know how long it was after this
16 June 2013 settlement agreement was entered that you --
17 that Walgreens outsourced their distribution
18 activities to AmerisourceBergen?

19 MS. SCHUCHARDT: Objection to form and
20 foundation.

21 BY THE WITNESS:

22 A. I don't remember.

23 BY MR. GADDY:

24 Q. If you'd skip down a couple of

1 sentences --

2 A. Uh-huh.

3 Q. -- there is one that starts: "Walgreens
4 agrees not to ship."

5 A. Oh, yeah.

6 Q. It says:

7 "Not to" -- "Walgreens agrees not to ship
8 any order of interest or suspicious order in whole or
9 in part unless and until Walgreens resolves the
10 reasons that caused it to designate the order."

11 Do you see that?

12 A. Yes.

13 Q. That phrase "orders of interest," have you
14 ever heard that before?

15 A. No.

16 Q. Let me ask you, I think this will be
17 quick, on the first portion of that paragraph where it
18 was talking about tolerances and ceilings, I'll show
19 you what I'm marking as --

20 A. Page 17, if I believe -- I just closed it.

21 Q. Well, I think it's 6 -- I think you are
22 right, it is 17.

23 A. 17, I've got it.

24 Q. Oh, I'm going to show you what I've marked

1 as Exhibit 22, which is P-WAG 2102.

2 (WHEREUPON, a certain document was
3 marked Walgreens - Bish Deposition
4 Exhibit No. 22, for identification,
5 as of 02/01/2019.)

6 BY MR. GADDY:

7 Q. Do you see this document, top right-hand
8 corner, it says -- has a date on it 8/18/10?

9 A. Yes.

10 Q. And at the top middle of the page it -- it
11 has the name "Ranick" and then below that it says
12 "Order Item Detail"?

13 A. Yes.

14 Q. Do you know Marcie Ranick?

15 A. No.

16 Q. Now, before we go -- get into this, have
17 you ever seen a report like this before?

18 A. No.

19 Q. Do you see in the top right-hand corner
20 under the date it says "suspicious order"?

21 A. Um-hum.

22 Q. And then on the -- in the kind of the top
23 section it has a store number, district number, and if
24 you go all of the way down it has an item description

1 and lists hydromorphone?

2 A. This is a print screen, but, yeah, I see
3 all of that.

4 Q. Okay. What -- do you know what system
5 this would have been a print screen from?

6 A. No.

7 Q. I mean, does this look like SIMS?

8 A. I mean, it would be -- it looks -- yeah,
9 it looks like, yeah, one of our -- it looks like a
10 SIMS system, but I don't know what query brings that
11 up or what they are looking at.

12 Q. Okay. And then down at the very bottom of
13 the page, it says: "Suspicious reason code:" --

14 A. Uh-huh.

15 Q. -- "T-exceeds tolerance limit."

16 A. Uh-huh.

17 Q. Do you see that?

18 A. Um-hum. Um-hum.

19 Q. Did -- does this form make sense to you in
20 any way, shape or form?

21 A. Well, I mean, I could guess what it means,
22 but I don't know what it means.

23 Q. Yeah, I -- I don't want you to guess.

24 You've never seen it before, never had

1 a -- never had any reason to use it within the
2 distribution center?

3 A. I didn't, no.

4 Q. Nobody during this -- this time period,
5 nobody notified you that there was any suspicious
6 orders for this particular drug and provided you with
7 a report such as this?

8 A. No.

9 Q. These print screens look pretty similar
10 but some of them are a little bit different. If you
11 turn the page one time, the next one at the top, it
12 looks like it has an abbreviation for loss prevention.

13 Do you see that?

14 A. Oh, um-hum.

15 Q. And, again, to the right it has got the
16 same date, 8/18/10, and it says "order review."

17 Have you ever seen this page before?

18 A. No.

19 Q. Anything like this before?

20 A. No.

21 Q. It says: "Source name President's Plaza."

22 Do you see that?

23 A. That's -- that was our DC, we were called
24 President's Plaza, I believe.

1 Q. Okay.

2 A. I don't know where that came from, but...

3 Q. That was the Perrysburg's DC's name or...?

4 A. I thought it was. I could be wrong. I
5 know we are 13, but I thought President's Plaza was
6 also another thing they used to refer to us. Maybe
7 not.

8 Q. And turn with me, please, to the Bates
9 number ending 571.

10 Do you see this particular report has a
11 different date on the top, 8/3/10, again below that it
12 says: "Suspicious order"?

13 A. Um-hum, yes.

14 Q. Do you see where I am?

15 A. Yes.

16 Q. And this has a -- the title of this
17 appears to be "Threshold Violations-Monthly."

18 Do you see that?

19 A. Yes.

20 Q. And down there in the -- the data section,
21 it has the -- the WIC number for oxycodone and -- and
22 gives the description of oxycodone 20-milligrams.

23 Do you see that?

24 A. Yes.

1 Q. Is this a report that you have ever seen
2 before?

3 A. No.

4 Q. Is this a -- you don't know -- nobody has
5 ever given you this report or given you information
6 about these types of reports for suspicious orders
7 within Walgreens?

8 A. Not that they've identified it was called
9 threshold violations, no, I've -- I've never seen
10 this.

11 Q. Is it fair to say that you have not ever
12 seen any suspicious order report other than the one
13 we've talked about earlier that you understood came
14 into the distribution center and your SAIL coordinator
15 was in charge of filing?

16 A. Correct.

17 Q. The last part of that paragraph on Page 16
18 that we read, it read:

19 "Walgreens agrees not to ship any order of
20 interest or suspicious order in whole or in part until
21 Walgreens resolves the reasons that caused it to
22 designate the order as an order of interest or
23 suspicious."

24 Do you see that?

1 A. Yes.

2 Q. And I know I've asked you about this
3 already, but I don't know if I've asked you
4 specifically after this time period in June 2013.

5 After this agreement was entered, did
6 anybody ask you or anybody on your team to do any type
7 of due diligence or investigation into any potential
8 suspicious orders?

9 MS. SWIFT: Object to the form.

10 BY THE WITNESS:

11 A. Not that I recall.

12 BY MR. GADDY:

13 Q. Now, we talked about it a little bit
14 earlier, but the DEA also came in to the Perrysburg
15 distribution center, correct?

16 A. Yes.

17 Q. I'll show you what I'll mark as
18 Exhibit 23.

19 (WHEREUPON, a certain document was
20 marked Walgreens - Bish Deposition
21 Exhibit No. 23, for identification,
22 as of 02/01/2019.)

23 BY MR. GADDY:

24 Q. And this is P-WAG 15.

1 Do you see at the top of this document it
2 says: "In the United States District Court for the
3 Northern District of Ohio, Western Division"?

4 A. Yes.

5 Q. And over to the left it says:

6 "In the matter of the administrative
7 inspection of Walgreens Corporation" and it has the
8 Perrysburg distribution center address there?

9 A. Yes.

10 Q. And over on the right-hand side of the
11 page it has the name of a particular magistrate judge
12 and then it says below that: "Administrative
13 Inspection Warrant."

14 Do you see that?

15 A. Yes.

16 Q. If we flip to the last page of the
17 document, do you see the date that this order was
18 entered?

19 A. Yes.

20 Q. And that was February 5th, 2013?

21 A. Correct.

22 Q. So that would have been before the
23 settlement agreement that we just looked at was
24 signed, right, we saw that was in June of '13?

1 A. Right.

2 Q. Okay. So while that investigation was
3 going on in Jupiter, we see this -- this warrant dated
4 this date related to Perrysburg, correct?

5 MS. SWIFT: Object to the form.

6 BY THE WITNESS:

7 A. I didn't know this was a warrant, but I
8 see this piece of paper with all of this information,
9 yes.

10 BY MR. GADDY:

11 Q. Sure.

12 Well, you see in the top right-hand
13 portion of the caption it says "Administrative
14 Inspection Warrant"?

15 A. Oh, there is the word, okay. Yes, I do.

16 Q. And it says:

17 "To: Wayne Groves, Diversion Investigator
18 and any other authorized Diversion Investigator Or
19 Special Agent of the DEA of the DOJ.

20 "Application having been made and probable
21 cause, as defined" in certain statutes and
22 regulations, "having been shown by the affidavit of
23 Wayne Groves for an inspection of the controlled
24 premises of Walgreens," in Perrysburg, "it appears

1 that such inspection is appropriate under" this
2 particular statute.

3 Do you see that?

4 A. Yes.

5 Q. Did you have an understanding that prior
6 to the DEA coming in and serving this warrant and
7 asking for documents and asking questions that they
8 had to make an initial showing to a court that that
9 was justified?

10 Did you have an understanding of that?

11 A. No.

12 Q. Okay. Did anybody ever tell you that at
13 Walgreens?

14 A. No.

15 Q. It goes on to say that:

16 "Therefore, pursuant to the provisions of
17 that statute, you are hereby authorized to enter the
18 above described premises, within business hours, for
19 the following purposes."

20 And if you flip through here, you see he
21 has got a bunch of different paragraphs talking about
22 a bunch of different things that these DEA agents are
23 allowed to do.

24 Do you see that generally?

1 A. Yes.

2 Q. And we'll only look at a couple of these
3 paragraphs. The very first one under A says:

4 "To inspect and copy records, reports,
5 files, official order forms, and other documents
6 required to be made, kept and maintained under certain
7 provisions" -- or excuse me -- "under the provisions
8 of the Controlled Substances Act."

9 Do you see that?

10 A. Yes.

11 Q. And then if you flip to Page 4, do you see
12 it kind of has a catchall there and in Paragraph A it
13 says:

14 "All other records which refer to or
15 relate to the distribution of controlled substances."

16 And in Paragraph B it says:

17 "All records pertaining to the filing of
18 suspicious order reports with the local field division
19 office of DEA pursuant to 21 CFR 1301.74(b)."

20 Do you see that?

21 A. Yes.

22 Q. "As well as records pertaining to a
23 distributor maintaining effective controls against
24 diversion pursuant to certain statutes."

1 Do you see that?

2 A. Yes.

3 Q. Did the DEA show you this warrant when
4 they came in?

5 A. Not me, no.

6 Q. Okay. Did anybody ever tell you that the
7 DEA was there pursuant to an administrative
8 investigative warrant --

9 A. No.

10 Q. -- excuse me -- administrative inspection
11 warrant?

12 A. No.

13 Q. Did anybody ever tell you why you were
14 having to give documents to the DEA?

15 A. No.

16 Q. I'll show you P-WAG 16 that I'll mark as
17 Exhibit 24.

18 (WHEREUPON, a certain document was
19 marked Walgreens - Bish Deposition
20 Exhibit No. 24, for identification,
21 as of 02/01/2019.)

22 BY MR. GADDY:

23 Q. And do you see the very top of this, it
24 says: "U.S. Department of Justice/Drug Enforcement

1 Agent" -- "Drug Enforcement Administration Subpoena"?

2 A. Yes.

3 Q. And at the bottom left-hand corner, do you
4 see that there is a date down there that looks
5 consistent with this date of the warrant?

6 A. Yes.

7 Q. Okay. February 4th, 2013?

8 A. Um-hum.

9 Q. And, again, in the "to" line you see that
10 this is addressed to Walgreens Corporation?

11 A. Yes.

12 Q. Perrysburg, Ohio, that's your distribution
13 center?

14 A. Yes.

15 Q. If you read there, it says:

16 "Greeting, by the service of this subpoena
17 upon you by Diversion Investigator Wayne Groves, who
18 is authorized to serve it, you are hereby commanded
19 and required to appear before Investigator Groves, an
20 officer of the DEA, to give testimony and to bring
21 with you and produce for examination the following
22 books, records, and papers at the time and place
23 hereinafter set forth."

24 Do you see that?

1 A. Yes.

2 Q. Did Investigator Francis or any of the
3 other DEA agents that you met with at the distribution
4 center ever give you a copy of these subpoenas?

5 A. Not that I recall.

6 Q. Okay. This one here says, in the next
7 paragraph:

8 "Pursuant to an official investigation
9 being conducted by the DEA, provide the following
10 information and documentation by Walgreens."

11 And it gives the Perrysburg address,
12 correct?

13 A. Yes.

14 Q. And it says:

15 "Any and all written and electronic
16 records and correspondence regarding the sale and
17 purchase of controlled substance between 2/1/11 and
18 2/5/13."

19 Do you see that?

20 A. Yes.

21 Q. And anything the DEA asked for you
22 certainly gave them, correct?

23 A. Yes.

24 Q. And we are not going to go through all of

1 these, but as you flip through this packet, you'll see
2 several other subpoenas. So specifically go to the
3 page ending 701, using the Bates number.

4 A. 701?

5 Q. Yes, ma'am.

6 A. Okay.

7 Q. And specifically I'm going to -- we are
8 going to look at what this subpoena is asking for in
9 that middle paragraph after the colon.

10 A. Okay.

11 Q. Do you see it says:

12 "All written and electronic correspondence
13 of suspicious controlled substance orders and
14 suspicious List 1 chemical orders reported by
15 Walgreens."

16 Do you see that?

17 A. No, I'm sorry.

18 After the colon you said?

19 Q. Oh, I'm sorry. The colon in the middle of
20 Paragraph 2.

21 A. Oh, right here. Okay.

22 Q. It says:

23 "All written and electronic correspondence
24 of suspicious controlled substance orders and

1 suspicious List 1 chemical orders reported by
2 Walgreens to the DEA."

3 Do you see that?

4 A. Yes.

5 Q. Is that something that they asked you for?

6 A. I don't remember. They asked me for many,
7 many things. I would have no way of remembering.

8 Q. If they asked you for evidence of
9 controlled substance orders -- excuse me -- suspicious
10 controlled substance orders, what would you have done?

11 A. Evidence of suspicious controlled -- I
12 probably would have pulled out the reports or the disk
13 if they had been disks by then.

14 Q. The ones that -- that the C-II SAIL
15 coordinator would have filed?

16 A. Um-hum.

17 Q. Do you recall whether this -- this visit
18 in early February 2013 --

19 A. Uh-huh.

20 Q. -- was that the first one during the day
21 or the second one at night or do you remember?

22 A. I don't remember.

23 Q. Okay. Do you recall that -- well, let me
24 ask you this: Did you know at this time that the C-II

1 cage in Jupiter had already been locked up by the DEA?

2 A. Do I know on February 5th? I don't know
3 when I had found that out, that they had closed. I
4 just knew they closed.

5 Q. Okay. After the DEA came to Perrysburg --

6 A. Uh-huh.

7 Q. -- with the warrant, with these subpoenas
8 asking for records and asking questions, was there a
9 legitimate concern that the DEA was going to shut down
10 Perrysburg, too?

11 A. From whom, a legitimate concern by whom,
12 me?

13 Q. You or -- or other people within the
14 distribution center?

15 A. I did wonder why they were there. I
16 didn't really -- I wasn't concerned they were going to
17 shut us down. I just wondered why they were there. I
18 remember wondering. Yeah.

19 Q. When DEA came to Perrysburg asking
20 questions and asking for documents, you certainly
21 cooperated with them, correct?

22 A. Correct.

23 Q. Okay. You didn't give them any pushback
24 or refuse to turn things over, refuse to answer

1 questions or anything like that?

2 A. No.

3 Q. Okay. I'll show you what I'm going to
4 mark as Exhibit No. 25. This is P-WAG 2604.

5 (WHEREUPON, a certain document was
6 marked Walgreens - Bish Deposition
7 Exhibit No. 25, for identification,
8 as of 02/01/2019.)

9 BY MR. GADDY:

10 Q. And do you see that this is a -- an e-mail
11 chain and it looks like the substantive e-mail is --
12 starts about a third of the way down the page?

13 A. Yes.

14 Q. And the subject is: "Important DEA
15 Reminder."

16 Do you see that?

17 A. Yes. The Compass is a store -- is a
18 retail store, the way they communicate is on a Compass
19 system, which I didn't have.

20 Q. Okay. Do you see there it says:

21 "District and market leaders, on
22 Wednesday, February 6th, the DEA inspected the
23 Perrysburg distribution center in Ohio and requested
24 records pertaining to controlled substances."

1 Do you see that?

2 A. Yes.

3 Q. Okay. And this e-mail is being sent on
4 February 7th, right?

5 A. February 8th, yeah. Oh, the 7th down --

6 Q. Sure. So the top -- so the top e-mail is
7 February 8th?

8 A. Right.

9 Q. But it looks like the e-mail talking about
10 the inspection on the 6th was sent the very next day
11 on the 7th, right?

12 A. Uh-huh, right, uh-huh.

13 Q. And it says:

14 "For your reference, the following Compass
15 communication will be provided to your stores today."

16 And it says: "Compass message 2/7/13
17 store and pharmacy managers."

18 Do you see that?

19 A. Yes.

20 Q. And so it looks like this message is being
21 sent out to all of the stores the day after the DEA
22 came into Perrysburg, correct?

23 A. That's what it looks like, yeah.

24 Q. Okay. It says:

1 "On Wednesday, February 6th, the DEA
2 inspected the Perrysburg distribution center in Ohio
3 and requested records pertaining to controlled
4 substances."

5 Do you see that?

6 A. Yes.

7 Q. It goes on to state:

8 "Walgreens policy is to cooperate with
9 regulatory agencies and law enforcement."

10 Do you see that?

11 A. Yes.

12 Q. Skip down to the next paragraph. It says:

13 "The procedures below provide a brief
14 overview of steps to take in the event that you
15 receive a warrant at your location."

16 Do you see that?

17 A. Yes.

18 Q. Okay. No. 1 it says:

19 "Ask DEA agents for identification and the
20 purpose of their visit and allow agents immediate
21 access to the pharmacy department and direct them to
22 the requested records."

23 Do you see that?

24 A. Yes.

1 Q. That sounds appropriate, correct?

2 A. Yes.

3 Q. The next bullet point says:

4 "District and pharmacy team members are
5 not required," and that's underlined, right?

6 A. Yes.

7 Q. "To answer any questions, participate in
8 any interviews" -- or excuse me -- "participate in
9 interviews, or provide written statements to the DEA
10 investigators."

11 Do you see that?

12 A. Yes.

13 Q. It goes on to say:

14 "Participating in these requests may
15 potentially expose the company and the individual team
16 member to liability."

17 Do you see that?

18 A. Yes.

19 Q. Do you know what liability Walgreens is
20 worried about being exposed to if district or pharmacy
21 team members talk to the DEA?

22 A. No, I'd have no way of knowing that.

23 Q. Did anybody tell you to not talk to the
24 DEA because of concerns about exposing the company or

1 yourself --

2 A. Uh-huh.

3 Q. -- to liability?

4 A. No. Just the opposite, actually.

5 Q. Do you recall earlier when we looked at
6 that internal audit report --

7 A. Uh-huh.

8 Q. -- and it noted that there were concerns
9 with the suspicious order reporting system at
10 Walgreens?

11 A. Yes.

12 Q. And that there were risks involved as far
13 as potential DEA sanctions, do you remember that
14 generally?

15 MS. SWIFT: Objection to the extent it
16 mischaracterizes the document which is not in front of
17 the witness.

18 BY THE WITNESS:

19 A. I was going to say, I don't remember that
20 verbiage, no, but -- the second part of what you said,
21 I don't.

22 BY MR. GADDY:

23 Q. Okay. Well, let me start over with just
24 the first part.

1 Do you recall generally that we looked at
2 that internal audit report earlier?

3 MS. SWIFT: Object -- same objections.

4 BY THE WITNESS:

5 A. I do recall that we looked at the internal
6 audit report, yeah.

7 BY MR. GADDY:

8 Q. Okay. And do you recall the internal
9 audit report raised concerns about the suspicious
10 order monitoring reporting system at Walgreens?

11 MS. SWIFT: Same objections.

12 BY THE WITNESS:

13 A. Can I look at it again?

14 BY MR. GADDY:

15 Q. Absolutely.

16 A. You are talking about this, right?

17 Q. Yes, ma'am.

18 MS. SWIFT: How much time do we have on the
19 record?

20 THE WITNESS: Huh?

21 MS. SWIFT: I was asking Mike.

22 THE VIDEOGRAPHER: Six seventeen.

23 MS. SWIFT: Six seventeen.

24 BY THE WITNESS:

1 A. "Significant concern regarding the growing
2 in-transit controlled drug losses," is that what he
3 is -- maybe I should wait.

4 MS. SWIFT: He'll ask another question.

5 BY MR. GADDY:

6 Q. Do you have the document in front of you
7 now?

8 A. Yes. Uh-huh.

9 Q. Do you see where the -- where the internal
10 audit report found issues with the controlled drug
11 reporting process?

12 A. Controlled drug, security, screening,
13 receiving.

14 Q. It was Bullet Point No. 2.

15 A. Under --

16 Q. Under All --

17 A. -- the Perrysburg DC.

18 Q. Under All DCs.

19 A. Okay. I was looking under Perrysburg.

20 Yeah, suspicious controlled drug order
21 processing and ordering, yes.

22 Q. And that was an issue that they -- that
23 was something that the internal audit folks had found
24 an issue with when they had done their audit at

1 Perrysburg, correct?

2 MS. SWIFT: Objection; foundation.

3 BY THE WITNESS:

4 A. Correct, that's what it looks like.

5 BY MR. GADDY:

6 Q. And if you flip through that document and
7 turn to Exhibit A, you'll see that -- I think it is
8 the second page of Exhibit A.

9 A. Exhibit A.

10 Q. And this is Exhibit 240. P-WAG 240.

11 A. I don't see any -- is Exhibit A within
12 this?

13 Q. Yes, ma'am, it is the -- the very next
14 page. It is the spreadsheet is Exhibit A.

15 Do you see it's up here?

16 If we go to the next page of Exhibit A.

17 A. Oh, there we go.

18 Q. Do you see in the middle of the page it
19 has "Controlled Drug Reporting"?

20 Do you see that?

21 A. Yeah.

22 Q. And this document, this audit was done
23 December of 2008, correct?

24 A. Correct.

1 Q. And here they identified an issue
2 regarding Walgreens controlled drug reporting,
3 correct?

4 MS. SWIFT: Object to the form.

5 BY THE WITNESS:

6 A. That's what it says, yeah.

7 BY MR. GADDY:

8 Q. And they noted that Walgreens produces a
9 monthly suspicious controlled drug order report,
10 right?

11 A. Right.

12 Q. And we have talked ad nauseam about that
13 as it related to the Rannazzisi letter from a year
14 earlier, correct?

15 A. Correct.

16 Q. And there is something in the Risk column
17 that -- that I'm not able to see right now and it had
18 a recommendation that -- that a meeting take place
19 between these different departments, correct?

20 Do you recall looking at all of this now?

21 A. Yes, um-hum.

22 Q. And you recall that if you look at the
23 final column, the decision was is that there would be
24 a meeting in May -- on May 31st, 2009, about five

1 months later, right?

2 A. Right.

3 Q. Okay. And we had a discussion about sense
4 of urgency.

5 A. Right.

6 Q. And whether or not that was -- setting a
7 meeting five months later was a sense of urgency and I
8 think you said that you would have liked to have seen
9 it done a few months earlier?

10 A. Right.

11 Q. And I said, Well, gee, we would certainly
12 agree that if it was done within a couple of days,
13 that would have been exhibitivite of a sense of urgency,
14 correct?

15 Do you recall that?

16 A. I recall saying I would have liked to have
17 seen it done sooner. I don't recall saying a couple
18 of days. Certainly that would have made it a major
19 urgent issue if I saw it done in two days. That's a
20 pretty quick response, I think.

21 Q. Let's go back to Exhibit 25.

22 A. Okay.

23 Q. The commune -- the Compass communication?

24 A. Oh, okay. All right.

1 Q. How many days did it take Walgreens to
2 send a communication out to all of their stores
3 advising them that they don't need to talk to the DEA
4 and that if they do they might expose Walgreens and
5 themselves to liability?

6 A. One day.

7 Q. I'll show you what I'll mark as Exhibit
8 No. 26. This is P-WAG 1361.

9 (WHEREUPON, a certain document was
10 marked Walgreens - Bish Deposition
11 Exhibit No. 26, for identification,
12 as of 02/01/2019.)

13 BY MR. GADDY:

14 Q. Do you see this is an e-mail between Barb
15 Martin and Patty Daugherty?

16 A. Yes.

17 Q. And this is dated February 15th, 2013,
18 correct?

19 A. Yes.

20 Q. This is about a week after the DEA came
21 into Perrysburg with the warrant subpoenas?

22 A. Yes.

23 Q. And the subject of this e-mail is "Draft
24 Communication."

1 Do you see that?

2 A. Yes.

3 Q. It says:

4 "Patty, Per my voicemail, here are copies
5 of the draft communication to go out to the stores
6 serviced by Perrysburg. This is to be sent out if
7 Perrysburg has to close."

8 Do you see that?

9 A. Yes.

10 Q. If you flip to the next page, you'll see
11 that communication.

12 Do you see that?

13 A. Yeah, I see the communication, yes.

14 Q. And it says:

15 "Beginning the week of February 18, 2013,
16 stores that have been receiving their Schedule II
17 controlled substance orders from the Walgreens
18 distribution center in Perrysburg, Ohio will now have
19 their orders shipped from the local Cardinal center."

20 Do you see that?

21 A. Yes.

22 Q. You agree that -- I mean, this is -- the
23 DEA came in the first week of February and the -- and
24 the -- the concern is, is that by February 18th you

1 might have to start filling orders from third parties.

2 Do you see that?

3 MS. SWIFT: Objection; foundation.

4 BY THE WITNESS:

5 A. Well, they are recommending that we start
6 sending them to third parties.

7 BY MR. GADDY:

8 Q. You agree that there was a legitimate
9 concern that now that Jupiter has been shut down that
10 Perrysburg is -- is potentially getting shut down as
11 well?

12 MS. SWIFT: Objection; foundation.

13 BY THE WITNESS:

14 A. Well, it doesn't really say why she is
15 sending this out or why they -- why they would be
16 doing this, but that would make sense.

17 BY MR. GADDY:

18 Q. Well, look at the e-mail on the first
19 page.

20 A. Yeah.

21 Q. And look at the third sentence of the
22 e-mail.

23 A. "To be sent out if Perrysburg has to
24 close."

1 Oh, has to close is what you are saying.

2 Oh, okay.

3 Q. Do you see that?

4 A. So your question was again?

5 Q. Sure.

6 You agree that there was legitimate
7 concern -- we know Jupiter has been shut down -- or
8 had to close, and you agree that there is now
9 legitimate concern that Perrysburg is also going to
10 have to close because of this investigation by the
11 DEA?

12 MS. SWIFT: Objection; foundation.

13 BY THE WITNESS:

14 A. I don't know if it is because of the
15 investigation, but there is -- this displays there is
16 concern that we are going to have to close.

17 BY MR. GADDY:

18 Q. Okay. So we don't know if it is because
19 of the investigation by the DEA?

20 A. I have no way of knowing that, no.

21 Q. Okay. But we know that this draft
22 communication about it maybe having to close comes
23 about a week after the DEA comes in with a warrant and
24 subpoenas, right?

1 A. Right.

2 MS. SWIFT: Objection; foundation.

3 BY MR. GADDY:

4 Q. Were you kept in the loop on this?

5 A. No.

6 Q. I'll show you what I'll mark as

7 Exhibit 27. This is P-WAG 2022.

8 (WHEREUPON, a certain document was

9 marked Walgreens - Bish Deposition

10 Exhibit No. 27, for identification,

11 as of 02/01/2019.)

12 BY MR. GADDY:

13 Q. Do you see this as being another Walgreens

14 e-mail chain, and we'll go down and actually we are

15 only going to look at an e-mail you are on, okay?

16 A. Okay.

17 Q. So if you see about two-thirds,

18 three-quarters of the way down the page there is a --

19 an e-mail from Vinayak?

20 A. Yes.

21 Q. And that e-mail is dated February 20th,

22 2013, right?

23 A. Yes.

24 Q. So now we are up to about two weeks,

1 two-and-a-half weeks after the DEA came into
2 Perrysburg with the warrant and subpoenas, correct?

3 MS. SWIFT: Object to form and foundation.

4 BY THE WITNESS:

5 A. Yes.

6 BY MR. GADDY:

7 Q. And the subject of this e-mail is:

8 "Perrysburg C-III through V follow-up."

9 Do you see that?

10 A. Yes.

11 Q. And you are actually there on the bottom
12 of the "to" line.

13 Do you see that?

14 A. Yes.

15 Q. Okay. And if you look at this e-mail, and
16 you can flip to the next page if you wanted to look at
17 it in total, it is divided into -- into sections, one
18 for C-II, and one for C-III through V, and then one
19 for PSE.

20 Do you see that?

21 A. Yes.

22 Q. Okay. And, again, the -- the subject line
23 was -- was "Perrysburg follow-up" and under C-II, do
24 you see the first bullet point there?

1 A. Yes.

2 Q. It says:

3 "Perrysburg will continue to pick what
4 they can until the DEA comes and shuts them down."

5 Do you see that?

6 A. Yes.

7 Q. What does that mean to you?

8 A. That means --

9 MS. SWIFT: Objection; foundation.

10 BY THE WITNESS:

11 A. That means to me that whoever Vinayak
12 Pandit is, that he felt that we were going to pick
13 and -- and that the DEA was going to shut us down.
14 That's what he felt. I just don't know who that is.

15 BY MR. GADDY:

16 Q. Okay. By continue to pick, does that mean
17 you are going to continue to -- to fill C-II orders
18 that come into Perrysburg?

19 A. Yes.

20 MS. SWIFT: Objection; foundation.

21 BY THE WITNESS:

22 A. Yes.

23 BY MR. GADDY:

24 Q. Is that what -- when "pick" is used as a

1 verb here, is that what that is meaning?

2 MS. SWIFT: Objection; foundation.

3 BY THE WITNESS:

4 A. "Pick" to me means pick an order, that's
5 all.

6 BY MR. GADDY:

7 Q. Okay. It looks like maybe there -- that
8 was the original plan and then it looks like
9 underneath there there are some updates.

10 Do you see it says "updates 2/20"?

11 A. Yes.

12 Q. And then it says:

13 "Bill Groth confirmed Perrysburg will stop
14 shipping C-II starting March 1st."

15 Do you see that?

16 A. Yes.

17 Q. It goes on to say:

18 "The distribution center has roughly
19 \$30 million in C-II inventory which should be down to
20 minimal dollars by next Friday."

21 Do you see that?

22 A. Yes.

23 Q. Do you have any understanding or
24 appreciation for the dollar amounts of controlled

1 substances that you would distribute on a daily or
2 weekly basis when you were -- when Walgreens was
3 distributing C-IIs?

4 A. No. Dollar amounts weren't something that
5 was really part of the distribution. It was receive,
6 ship, pick, you know.

7 Q. I totally understand.

8 I'm trying to get a sense of volume. I
9 understand 5,000 or just under 5,000 stores a week --

10 A. Uh-huh.

11 Q. -- is what you processed orders from and
12 shipped orders to, correct?

13 A. Correct.

14 Q. Okay. I would assume that efforts were
15 made to make it an equal amount of stores on every day
16 or an equal --

17 A. Correct.

18 Q. -- amount of volume on every day?

19 A. Equal amount of stores. We had no idea
20 what the volume was until it came in.

21 Q. There you go.

22 Do you have any understanding or
23 appreciation for the average volume of pills or -- or
24 SKUs, pill bottles, that you would fill on a daily or

1 a weekly basis?

2 MS. SWIFT: Objection; compound.

3 BY THE WITNESS:

4 A. No, I wouldn't have an average -- I
5 wouldn't be able to come up with an average number.

6 BY MR. GADDY:

7 Q. Okay. If you keep going down the bullet
8 points, the one, two, three, the fourth one on the
9 next page starts: "PDQ ordering."

10 A. Yes.

11 Q. Do you know what "PDQ" means?

12 A. Yes.

13 Q. What does it mean?

14 A. Do you want to know what they initially
15 told me it meant, was pretty damn quick, that's what
16 they told me it meant. But it is basically an order
17 that a store -- they have a -- one order a week that
18 the system creates for them based on their activity
19 and then the other four days of the week or five days
20 of the week they have the ability to order an item
21 if -- if they get a script in for something they don't
22 have, they can enter it in the system and have it
23 shipped individually.

24 Q. Okay. And that was a mechanism that was

1 in place if the once-a-week ordering system wasn't
2 enough to fill their needs?

3 A. Or didn't have the right type of item. If
4 they got a script in for something they didn't have
5 or... Uh-huh.

6 Q. It says:

7 "The plan is to con" -- "to continue to
8 allow PDQ ordering for stores even when they are being
9 serviced by the wholesalers."

10 Do you see that?

11 A. Yes.

12 Q. Okay. How -- during the distribution
13 period and when you were the C-II function manager,
14 how did PDQ ordering impact your daily obligations?

15 A. You mean our daily labor on the floor to
16 handle PDQs or --

17 Q. Sure.

18 A. You said "obligations." I didn't know
19 what you meant by that.

20 Q. Yeah. I -- I guess here is what I'm
21 trying to get at.

22 A. Okay.

23 Q. Did the PDQ orders become a -- a normal
24 part of the ordering process to where you couldn't

1 tell the difference between a normal order and a PDQ
2 order --

3 A. Oh, no.

4 Q. -- or was there some different process for
5 PDQs?

6 A. Yeah, it was -- you could always tell the
7 difference, PDQs picked in a box this big
8 (indicating), regular orders picked in a tote that big
9 (indicating). PDQs were onesie-twosie, they were
10 never -- rarely, you know, big quantities or a
11 large -- or even different items for that matter.

12 Q. Okay. Were -- were there any -- was there
13 any type of review, analysis or screening of the PDQ
14 orders that you did?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. There may have been at corporate or at the
18 computer room, but at my level, no, they weren't
19 looked at any -- at all.

20 BY MR. GADDY:

21 Q. Okay. At -- at your level a PDQ order
22 came in, you processed it and filled it?

23 A. Correct.

24 Q. Okay.

1 A. Because it went through the system.

2 That's what we had to make sure.

3 Q. Excuse me. If you go down to the next
4 heading in this e-mail, it is "C-III through V,"
5 correct?

6 A. Yes.

7 Q. And it says:

8 "Perrysburg will make all the quantity
9 unavailable."

10 Do you see that?

11 A. Yes.

12 Q. Looking at this now, do you recall that
13 shortly after the DEA inspection at Perrysburg that
14 all C-III through V drugs were redirected to other
15 distribution centers?

16 A. No, I don't recall that.

17 Q. Okay.

18 A. I really paid little attention to III
19 through V because they weren't under my umbrella of
20 responsibility.

21 Q. Okay. Let me show you what I'll mark as
22 Exhibit 28. This is P-WAG 2026.

23 (WHEREUPON, a certain document was
24 marked Walgreens - Bish Deposition

1 Exhibit No. 28, for identification,
2 as of 02/01/2019.)

3 BY MR. GADDY:

4 Q. And turn with me, if you would, please, to
5 Page 461. It is the third page of the document.

6 A. Okay.

7 Q. And if you look, it looks like it is a
8 calendar invite from Vinayak about a third of the way
9 down the page. It looks like very similar to the last
10 e-mail that we just read.

11 Do you see that?

12 A. Yes.

13 Q. Okay. So you've got to flip back one to
14 see who the -- who the e-mail is from. You see at the
15 very bottom of the previous page there is an e-mail
16 from Vinayak?

17 A. Yes.

18 Q. And go back so we can see the e-mail and
19 we see that it's to a bunch of folks and, again, you
20 are included on the "to" line.

21 A. Uh-huh.

22 Q. Do you see that?

23 A. Yes.

24 Q. And it says:

1 "FYI slight change in plans. Cardinal has
2 red flagged 367 stores that were serviced out of
3 Perrysburg and won't be able to service them."

4 Do you see that?

5 A. Yes.

6 Q. Do you know what that means that "Cardinal
7 has red flagged 367 stores"?

8 A. No. I do recall them -- that happening,
9 but I never was told why.

10 Q. Did you ever try to find out what that
11 meant?

12 A. I may have asked, but whoever I asked
13 didn't know the answer, I may not have pursued it
14 beyond that. I don't recall.

15 Q. Did you ever -- I'm sorry.

16 A. I don't recall.

17 Q. Did you ever get an answer to what that
18 meant that Cardinal had red flagged 367 stores?

19 A. Not that I recall.

20 Q. It goes on to say:

21 "Due to this change there was a decision
22 made that Perrysburg will continue to pick C-II past
23 March 1st."

24 Do you see that?

1 A. Yes.

2 Q. Okay. So I think we've looked earlier
3 that -- that Perrysburg was going to stop shipping
4 C-IIs on 3/1 and now you decided that that's not going
5 to be the case anymore, correct?

6 MS. SWIFT: Object to form.

7 BY THE WITNESS:

8 A. That's what it looks.

9 BY MR. GADDY:

10 Q. Okay. If you keep reading up the chain,
11 it looks like you respond to Vinayak there?

12 A. Yes.

13 Q. And you say:

14 "With this update please provide the
15 volume of these 367 stores so we can determine how
16 many team members we need to keep in C-II past
17 Friday."

18 Do you see that?

19 A. Yes.

20 Q. I would imagine there were some
21 administrative and logistical issues kind of going on
22 in your department --

23 A. Right.

24 Q. -- with this announcement that there is

1 not going to be a C-II distribution out of Perrysburg
2 anymore, correct?

3 A. Correct.

4 Q. Okay. Explain to me what was going on
5 behind the scenes there with you and your department
6 now that you had this announcement, and this is
7 February 26th, so this is two-and-a-half, three weeks
8 after the DEA came in, had this been building for some
9 period of time that you were shutting down C-IIs or
10 was this a pretty quick process?

11 MS. SWIFT: Object to the form.

12 BY THE WITNESS:

13 A. For me personally it was a quick process.
14 I didn't know it was coming. It is just one day this
15 is what we are doing and then we are transferring our
16 freight to Woodland, I believe is where we sent our
17 inventory that we had.

18 BY MR. GADDY:

19 Q. Okay. So let me break that down into two
20 separate pieces.

21 It happened very quickly for you as far as
22 being told that C-II distribution was being ceased out
23 of Perrysburg, correct?

24 A. Correct.

1 Q. Who would have given you that information?

2 A. I don't recall. It could have come from
3 any source. It could have come from the DC manager or
4 the operations manager or somebody at corporate. I
5 don't recall who told me.

6 Q. Did you have any hint or any inclination
7 that that was coming?

8 A. I can't say that I had a -- an hint or
9 inclination that that was coming. I have to say I was
10 surprised because I thought we ran a really tight ship
11 and I was surprised.

12 Q. Had anybody given you any indication,
13 maybe it's information from what the DEA was saying to
14 Jupiter, maybe it's from internal audit or maybe it's
15 from corporate or -- had anybody given you any
16 indication that there were problems or issues with the
17 distribution of controlled substances from Perrysburg
18 that would cause you to be in a situation where you
19 would stop shipping?

20 A. Not that I recall.

21 Q. So the next thing that you said was that
22 you put in action a plan to get your inventory out of
23 the vault in Perrysburg --

24 A. Uh-huh.

1 Q. -- into Woodland's, correct?

2 A. I believe it was Woodland. I'm not sure
3 of that, but...

4 Q. Okay. Well -- well, we know it wasn't
5 Jupiter, right?

6 A. Jupiter, right, that's why I said it must
7 have been Woodland.

8 Q. Right.

9 A. That's the only one left, yeah.

10 Q. We know that the vault at Jupiter already
11 had a padlock on it, right?

12 MS. SWIFT: Object to form, foundation.

13 BY THE WITNESS:

14 A. I didn't know that, but...

15 BY MR. GADDY:

16 Q. We know it now?

17 A. Yes, uh-huh.

18 Q. Okay. Maybe you don't know, but you told
19 me the stores -- the states or the areas that you
20 serviced and obviously you told me about the states
21 within the kind of area right around Perrysburg, Ohio,
22 Kentucky, Tennessee, you said Indiana, I believe,
23 Illinois, and then you said there were some stores up
24 in Connecticut --

1 A. Uh-huh.

2 Q. -- in the northeast area, is that -- is
3 that correct?

4 A. To my recollection, yeah.

5 Q. Okay. It wasn't the plan that the
6 Woodland's distribution center in California would
7 start supplying those stores, was it?

8 A. I wasn't told what the plan was. I
9 couldn't answer that.

10 Q. Would it be fair to you that it was con --
11 or excuse me. Would it be fair to say that it was
12 conveyed to you that there was a sense of urgency to
13 get the controlled drugs out of the vault in
14 Perrysburg and get them to Woodland's?

15 A. Well, it wasn't something we were
16 lollygagging a -- around with, so if you want to call
17 that a sense of urgency. I just know there was a
18 certain date we had to have them out by.

19 Q. Okay.

20 A. Once I was told.

21 Q. Now that you -- we have had the
22 opportunity today to look at some information and some
23 documents --

24 A. Uh-huh.

1 Q. -- and you saw that the DEA, after serving
2 subpoenas and warrants, went into Jupiter and
3 padlocked their C-II vault --

4 A. Uh-huh.

5 Q. -- and didn't let them get their drugs out
6 of there --

7 A. Uh-huh.

8 Q. -- does that make some sense as to why you
9 wanted to get the Perrysburg vault -- vault emptied
10 and transferred to Woodland?

11 MS. SWIFT: Object to the form of the question.

12 BY THE WITNESS:

13 A. So you are asking me if that's why the
14 people above me in management made the decision to do
15 that, was it based on what was -- happened at Jupiter?

16 BY MR. GADDY:

17 Q. Well, I don't think you can get in their
18 head and tell me that.

19 A. Yeah, I can't.

20 Q. I wish you could but I don't think you
21 can.

22 A. Yeah, you are right.

23 Q. I'm just asking whether or not that made
24 sense?

1 MS. SWIFT: Object to the form of the question.

2 BY THE WITNESS:

3 A. It -- it could -- yeah, it could follow,
4 but I -- I don't know if I -- I don't know who knew
5 that. I don't know if anybody knew that.

6 BY MR. GADDY:

7 Q. But that would be logical?

8 MS. SWIFT: Object to the form of the question.

9 BY THE WITNESS:

10 A. To some, yes.

11 BY MR. GADDY:

12 Q. Let me ask you this: You said who -- you
13 don't know who knew that, right?

14 A. No.

15 Q. Who -- do you have any idea who knew what
16 was going on at a high level at these distrib --
17 different distribution centers as far as the DEA
18 investigations?

19 Do you know who that would have been?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. The building manager, I would think, would
23 have known, but I -- I can't remember who was the
24 manager at the time they came in.

1 BY MR. GADDY:

2 Q. Sure.

3 Who at corporate? So, obviously the -- I
4 would assume the -- the person -- probably everybody
5 in Jupiter knows that they put a lock on the Jupiter
6 C-II --

7 A. Yeah, I'm sure.

8 Q. -- door?

9 I mean, that's -- you would agree with
10 that, right?

11 A. Right.

12 Q. I'm trying -- you were at one of the other
13 C-II distribution centers that Walgreens had and you
14 didn't know, right?

15 A. Right.

16 Q. You didn't even really know that the DEA
17 was the reason they shut down until you started
18 preparing for this deposition, right?

19 A. Right.

20 Q. Okay. I'm trying to figure out on a big
21 picture level, macro level, 30,000-foot view, who
22 actually has this information and -- and knowledge.

23 Do you know?

24 MS. SWIFT: Objection; foundation.

1 BY THE WITNESS:

2 A. No, I don't know. It could be a -- I
3 would -- it could be a lot of people. All of the
4 people on the -- this Vinayak or whoever the -- I
5 don't know who these people are.

6 BY MR. GADDY:

7 Q. If you had been given the information
8 about what happened at Jupiter and some of the
9 allegations that were made --

10 A. Uh-huh.

11 Q. -- and some of the -- some of the problems
12 the DEA identified --

13 A. Uh-huh.

14 Q. -- do you think you could have done your
15 job better?

16 MS. SWIFT: Objection; calls for speculation.

17 BY THE WITNESS:

18 A. Personally in the vault, probably not. I
19 would have needed programming to be fixed, which I
20 can't do. That -- the volume we did, you just
21 couldn't look at every order. You just couldn't do
22 it. So I -- I would need it to be systemic, which I
23 don't know how to do.

24 BY MR. GADDY:

1 Q. Okay. Well, that "systemic" word, I mean,
2 that was something that we saw that the DEA alleged,
3 right, that there were systemic issues --

4 A. Um-hum.

5 Q. -- correct?

6 A. Um-hum.

7 Q. Okay. So you couldn't have personally saw
8 those problems that we looked at earlier.

9 MS. SWIFT: Objection. Object to the form.

10 BY MR. GADDY:

11 Q. But do I -- do I trust that had you known
12 about those problems you would have taken action,
13 whether it was Matt in the computer room or Barb, the
14 Rx purchasing manager, that you would have taken some
15 actions to -- to see what, if anything, they were
16 doing to try to solve some of these problems so that
17 that -- those types of things didn't happen at
18 Perrysburg?

19 MS. SWIFT: Object to the form.

20 BY THE WITNESS:

21 A. I would think that we would have put our
22 heads together to try to figure out how to fix it,
23 yeah.

24 BY MR. GADDY:

1 Q. And -- and if it was something as serious
2 as that where the DEA is saying that -- that the --
3 the operation of the facility is an imminent threat to
4 public health and safety, you would have gone about
5 and you would have set a meeting much quicker than
6 five months out.

7 Is that fair to say?

8 MS. SWIFT: Objection to form, mischaracterizes
9 the facts.

10 BY THE WITNESS:

11 A. I would have had -- like I said, I would
12 have thought that we would have gotten our heads
13 together. I would certainly think that we could have
14 accomplished that in less than five months, yes. I
15 don't know if we could have solved it, but...

16 BY MR. GADDY:

17 Q. Well, you can't solve it until you start
18 getting together and talking about it, right?

19 A. Right.

20 MS. SWIFT: Objection to the form.

21 BY MR. GADDY:

22 Q. That's -- and that's a very first step,
23 would you agree?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Yes.

3 BY MR. GADDY:

4 Q. So if we look -- go back to this document,
5 you are asking Vinayak for the list of the stores so
6 that you know how many team members you need to keep
7 on and then the original e-mail at the top of the
8 first page, it looks like Doug Peterson tells you that
9 he'll probably know, you know, give him a day, but he
10 says Wednesday. So it looks like your e-mail is from
11 Tuesday, so it looks like you might know the next day.

12 Do you see that?

13 A. Yes.

14 Q. Was everybody within the C -- C-II
15 department able to keep a job at Walgreens after --

16 A. Oh, yes.

17 Q. Okay. People were just able to be moved
18 around to other areas?

19 A. Oh, yeah, um-hum.

20 Q. Let me show you P-WAG 2016 that I'm going
21 to mark as Exhibit 29.

22 (WHEREUPON, a certain document was
23 marked Walgreens - Bish Deposition
24 Exhibit No. 29, for identification,

1 as of 02/01/2019.)

2 BY MR. GADDY:

3 Q. And do you see this -- the top of the
4 page, again, we've got an e-mail or meeting invite
5 from Vinayak?

6 A. Yes.

7 Q. And now it's 2/27/13.

8 Do you see that?

9 A. Um-hum.

10 Q. So we are continuing kind of along this
11 timeline. Again, the subject down in the middle of
12 the page is: "Perrysburg follow-up."

13 Do you see that?

14 A. Yes.

15 Q. And I think you're in the middle of the
16 "to" line this time, but you see you are included on
17 this -- this e-mail or calendar invite, whichever it
18 is.

19 Do you see that?

20 A. Yes.

21 Q. Down there at the bottom there is a list
22 of required attendees, so I'm guessing this is a
23 meeting invite, and over on the right-hand side of the
24 page, second line up, do you see here you are listed

1 as a required attendee to this meeting to talk about
2 Perrysburg?

3 A. Yes.

4 Q. If you look at -- and let's go in order.

5 So turn to the second page for me, please. And we see
6 the original update under C-II:

7 "Perrysburg will continue to pick what
8 they can until the DEA comes and shuts them down."

9 Do you see that?

10 A. Yes.

11 Q. Okay. And if you go down, there are some
12 updates on 20 -- 2/22 and then there are also some
13 updates on 2/27.

14 Do you see that?

15 A. Yes.

16 Q. It says: "Continue to service potentially
17 red flagged stores."

18 Do you see that?

19 A. Yes.

20 Q. And that's consistent with that last
21 e-mail that we looked at where you were trying to
22 figure out the volume of those 367 stores so that you
23 could have enough team members to continue to service
24 that, correct?

1 A. Correct.

2 Q. So the fact that they had been
3 quote/unquote red flagged by Cardinal Health was not
4 going to prevent Walgreens from supplying them with
5 controlled substances?

6 A. Correct, because I never did get the
7 definition of red flagged by -- I don't know why
8 they -- what that means.

9 Q. Okay. You tried to find out but nobody
10 would tell you?

11 MS. SWIFT: Object to the form, mischaracterizes
12 the testimony.

13 BY THE WITNESS:

14 A. Or no one knew.

15 BY MR. GADDY:

16 Q. I'm sorry?

17 A. Or no one knew. The people I asked didn't
18 know, so...

19 Q. Okay. And you were never able to get that
20 information despite trying to get it?

21 MS. SWIFT: Object to the form.

22 BY THE WITNESS:

23 A. I didn't try for -- it is like I asked
24 every day different people. I asked a couple of

1 people. No one really understood what it was about,
2 so I moved on.

3 BY MR. GADDY:

4 Q. Okay.

5 A. Yeah.

6 Q. So it says the plan -- it says:

7 "Rx purchasing team is working on the
8 stores. The plan is to send the store list of the 367
9 stores to the distrib" -- "distribution center by end
10 of day."

11 Do you see that?

12 A. No. I'm just trying to figure out where
13 you are.

14 Q. I'm sorry. I'm at the first bullet point
15 under 2/27.

16 A. Oh, okay.

17 Q. Updates 2/27.

18 A. Rx purchasing, okay, got it.

19 Q. So you see that:

20 "Rx purchasing working on the stores."

21 A. Uh-huh.

22 Q. "The plan is to send the store list of the
23 367 stores to the DC by end of day."

24 Do you see that?

1 A. Yes.

2 Q. And that was the store list that you had
3 been asking about, right?

4 A. Yes.

5 Q. Okay. It says:

6 "Additional items are being ordered into
7 the Perrysburg distribution center to help service the
8 stores."

9 Correct?

10 A. That's what it says, yes.

11 Q. If you skip down a couple of bullet
12 points, do you see where it starts out: "367 red
13 flagged stores"?

14 A. Yes.

15 Q. It says:

16 "Doug" -- or "Denny/Doug to determine what
17 we need to do to process orders for these stores to
18 account for the order redirects properly."

19 It goes on to say:

20 "Redirects to Cardinal need to be stopped
21 as Cardinal is not fulfilling orders as they are
22 considered suspicious."

23 Do you see that?

24 A. Yes.

1 Q. Do you recall that in all your attempts to
2 find out what it meant by a red flagged store, did
3 anybody tell you that that meant that Cardinal Health
4 considered orders to those stores to be suspicious?

5 A. Not that I recall. I don't recall getting
6 an answer at all.

7 Q. Okay. If somebody had told you that
8 Cardinal Health had made a decision that filling
9 orders to those 367 stores would have been filling
10 suspicious orders --

11 A. Uh-huh.

12 Q. -- would that have caused you any concern
13 about supplying those stores out of the Perrysburg
14 distribution center?

15 A. Not unless I knew what data they were
16 using to -- I mean, it could be Cardinal's definition
17 of a suspicious order is anything over five pieces.
18 You know, I don't know what their definition is of
19 that, so I'd have to first know what they based that
20 on.

21 Q. Is -- isn't that information that you
22 would have liked to have had, though, before you
23 facilitated Schedule II drugs going to those 367
24 stores?

1 A. I trusted these people who were giving me
2 this direction, so I -- I did not -- wasn't concerned
3 about servicing those stores.

4 Q. Okay.

5 A. Because I trusted these people would not
6 have us do that if we shouldn't be.

7 Q. Okay. So you were putting your reliance
8 on -- is it the corporate folks, is that --

9 A. If that's the Doug and -- I don't know who
10 these people are. I can't remember anymore. It was
11 too long ago, but, yeah, the Doug and the Bill and all
12 of these people's names that are on here, obviously,
13 you know, have something to do with store orders and
14 what their history is and, you know, things I don't
15 have.

16 Q. Absolutely.

17 So in your position you relied on the
18 information given to you by folks in -- in other
19 departments, whether it's just corporate, whether it's
20 internal audit, whether it is -- it is IT, whether it
21 is Barb Martin's group --

22 A. Uh-huh.

23 Q. -- you relied on them and because of -- of
24 your trust in those people, you were willing to

1 continue to supply these stores?

2 A. Yes.

3 Q. Is that fair?

4 A. Yes.

5 Q. And if you go up to the -- the last
6 update, which is on the first page, it says: "Updates
7 3/1."

8 A. Uh-huh.

9 Q. And it says:
10 "Perrysburg will continue to serve the 367
11 red flagged stores for another month."

12 Do you see that?

13 A. Yes.

14 Q. And that's consistent with your -- your
15 memory of how it happened?

16 A. I don't have a memory of when any of this
17 happened, so I can't say it's consistent with that. I
18 just don't remember the dates and, yeah.

19 MS. SWIFT: What do we got on the record? Is it
20 seven yet?

21 THE VIDEOGRAPHER: In eight minutes.

22 MS. SWIFT: Eight minutes left, okay.

23 BY MR. GADDY:

24 Q. Do you remember when you stopped servicing

1 those stores?

2 A. No. I'm sorry. I am 65. My memory quit
3 about -- about three years ago.

4 Q. I understand.

5 A. Yeah.

6 MR. GADDY: All right. Let's take a short
7 break.

8 THE VIDEOGRAPHER: We are going off the record
9 at 4:03.

10 (WHEREUPON, a recess was had
11 from 4:03 to 4:22 p.m.)

12 THE VIDEOGRAPHER: We are back on the record at
13 4:22.

14 (WHEREUPON, a certain document was
15 marked Walgreens - Bish Deposition
16 Exhibit No. 30, for identification,
17 as of 02/01/2019.)

18 BY MR. GADDY:

19 Q. Ms. Bish, I'm going to shift gears a
20 little bit and show you what I've marked as
21 Exhibit 30. It is P-WAG 2677.

22 And I'll take you down to the very bottom
23 of the page. Do you see it is an e-mail from a woman
24 named Sharon Horkott?

1 A. Um-hum.

2 MS. SWIFT: Do you have any more copies?

3 MR. GADDY: I'm sorry.

4 MS. SWIFT: This is Exhibit 30, you said?

5 MR. GADDY: Yes.

6 BY MR. GADDY:

7 Q. And it is dated May 25th, 2012.

8 A. Yes.

9 Q. And it looks like, if you flip the page,
10 you see we can't see the -- the substance of the
11 e-mail, but you see the --

12 A. Oh, yeah.

13 Q. -- the subject is: "Suspicious drug
14 process."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And in response to this, just above
18 it, you see an in -- e-mail from Denman Murray?

19 A. Yes.

20 Q. The same date, to Sanjay Bhana.

21 Do you see that?

22 A. Yes.

23 Q. And he says:

24 "FYI, DCs have a plan to decrease orders

1 if instructed."

2 Do you see that?

3 A. Yes.

4 Q. And if we look on that bottom e-mail, you
5 were included there, correct, far right-hand side?

6 A. Yes, um-hum.

7 Q. Do you recall there being any plan to
8 decrease orders at the distribution center?

9 A. No, I don't recall any plan to do that.

10 Q. Do you recall doing anything to decrease
11 orders in the distribution center?

12 A. Ever? Not unless I found one to be
13 ordered by mistake and fixed it.

14 Q. But other than that, you don't recall ever
15 having anything to do with decreasing orders from the
16 distribution center --

17 A. No.

18 Q. -- for controlled substances?

19 A. No.

20 Q. Okay. Let me show you one more document.

21 This is going to be Exhibit No. 31. This is

22 P-WAG 256.

23 (WHEREUPON, a certain document was

24 marked Walgreens - Bish Deposition

1 Exhibit No. 31, for identification,
2 as of 02/01/2019.)

3 BY MR. GADDY:

4 Q. And if you flip with me to the second
5 page, it looks like we see the same e-mail from Sharon
6 Horkott on May 25th, 2012.

7 Do you see that?

8 A. I see the same subject line, yeah.

9 Q. Sure.

10 And --

11 A. I can't see the e-mail, but...

12 Q. -- again, we can't read the body of the
13 e-mail, right?

14 A. Right.

15 Q. Do you know who Sharon Horkott is?

16 A. No.

17 Q. Okay. And, again, we see that same e-mail
18 and you are included on that e-mail?

19 A. Yes.

20 Q. And it looks like there is a response to
21 that from Tammy.

22 Do you see that?

23 A. Yes.

24 Q. And Tammy sends this response.

1 Do you recognize any of those folks on the
2 "to" line there?

3 A. Just Matt and I, the carbon copy, I -- I
4 mean.

5 Q. Okay. And it is the same -- same subject
6 line: "Suspicious drug process?"

7 Do you see that?

8 A. Yes.

9 Q. And Tammy says:

10 "Hello, regarding the below, do you see
11 this as we do not need to check orders for overages
12 anymore for controls? From the conference call my
13 understanding was that we did not need to check orders
14 that were system-generated from the store because they
15 were already being checked through the system to make
16 sure that they didn't exceed a threshold."

17 Do you see that?

18 A. Yes.

19 Q. With that insight from -- from Tammy that
20 she -- it looks like she got from a conference call
21 that maybe was the subject of the original e-mail --

22 A. Uh-huh.

23 Q. -- does that refresh your memory at all
24 about this -- this process for either decreasing

1 orders or -- or reviewing orders for threshold?

2 Does that do anything for you?

3 A. No.

4 Q. Okay. She goes on to say in the second
5 paragraph, second sentence that starts at the end of
6 the fir -- end of the first line, she says:

7 "But we are unclear about the checking of
8 orders and if it should still be done for C-III
9 through C-V and how this will work for C-II also."

10 Do you see that?

11 A. Yes.

12 Q. She goes on to say that:

13 "Our computer room currently checks C-IIIs
14 orders daily, should they continue to do this and if
15 so what SKU amount is really considered suspicious?"

16 Do you see that?

17 A. Yes.

18 Q. In that first part about the computer room
19 looking at the C-II orders, that's consistent with
20 what you told us throughout the course of the day,
21 correct?

22 A. Correct.

23 Q. And that they would note -- they would
24 either themselves call a pharmacy if they thought

1 there was an error or notify you?

2 A. Correct.

3 Q. Correct?

4 A. Uh-huh.

5 Q. But you see here Tammy is asking: "What

6 SKU amount, how many bottles is really considered

7 suspicious?"

8 Do you see that?

9 A. Um-hum, I see that.

10 Q. Okay. And is that a question that you

11 would have been able to answer for Tammy?

12 A. No.

13 Q. There is a response just above that from

14 an Audrey Phillips.

15 Do you know who that is?

16 A. No.

17 Well, I can see at the bottom it says SAIL

18 coordinator in Waxahachie, Texas, but...

19 Q. Okay.

20 A. Which, again, they don't have a C-II

21 vault, so it makes me believe they are more referring

22 to C-III through V, but I don't know that.

23 Q. Okay. And do you have an appreciation

24 that the suspicious order requirement doesn't just

1 apply to C-IIs but it also applies to all controlled
2 drugs?

3 A. Yes.

4 Q. Okay. And so we see Audrey saying here to
5 Tammy:

6 "Hey, did anyone answer you? I didn't get
7 the impression we shouldn't check orders. I got it
8 that orders were adjusted prior to us getting them, so
9 I could see where it would be double-checking."

10 Do you see that?

11 A. Yes.

12 Q. And, again, this is May of 2012, correct?

13 A. Yes. Uh-huh.

14 Q. And in the last line there, and you see
15 that this SAIL manager from this particular
16 distribution center says:

17 "I think your question regarding what is
18 suspicious is a good one. Maybe Barb Martin can
19 answer."

20 Do you see that?

21 A. Yes.

22 Q. Okay. Do you know whether or not Tammy at
23 Perrysburg or -- or Audrey, the SAIL coordinator at
24 this Texas distribution center, ever got an answer to

1 what a suspicious order is?

2 A. No, I don't know.

3 Q. Did you ever get an answer or would you
4 ever be able to give an answer as the C-II function
5 manager for Perrysburg about what a suspicious order
6 is?

7 MS. SWIFT: Object to the form.

8 BY THE WITNESS:

9 A. No, because, again, it depends on where
10 they are located, what population they are in, things
11 that I don't have access to. I couldn't determine
12 that.

13 MR. GADDY: Okay. Thank you, Ms. Bish. That's
14 all I have for you.

15 MS. SWIFT: I'm sorry, Deb, I have got just a
16 few questions. I'll try to keep it quick.

17 THE WITNESS: Come on.

18 MS. SWIFT: I'll just stay here if that's okay
19 with everybody.

20 EXAMINATION

21 BY MS. SWIFT:

22 Q. Ms. Bish, do you live here in Ohio?

23 A. Yes.

24 Q. Where do you live?

1 A. In Perrysburg.

2 Q. How far is Perrysburg from where we are
3 sitting right now in Toledo?

4 A. About 15 minutes.

5 Q. How far is it from Cleveland?

6 A. From here?

7 Q. Yes. Perrysburg.

8 A. About two hours.

9 Q. How -- how far is Perrysburg from
10 Cleveland?

11 A. About two hours.

12 Q. How long have you lived in Perrysburg?

13 A. 16 or 17 years.

14 Q. Did you move to Perrysburg to take your
15 job at Walgreens?

16 A. No. Actually, I commuted the first nine
17 months and decided commuting was not for me so I
18 moved. I didn't plan on moving, yeah.

19 Q. Did you grow up in Ohio?

20 A. Yes.

21 Q. Are you married?

22 A. No.

23 Q. Do you have kids?

24 A. Yes.

1 Q. How many kids do you have?

2 A. Three.

3 Q. I apologize if you just said this, but how
4 long have you worked for Walgreens?

5 A. I didn't just say that, I don't think.
6 Since 2002, I believe, or 2003. I always get them
7 mixed up.

8 Q. Have you spent all of that time working in
9 the Walgreens Perrysburg distribution center?

10 A. Yes.

11 Q. For some period of the time that you have
12 worked for Walgreens at the Perrysburg distribution
13 center, were you responsible for controlled
14 substance -- for C-II controlled drugs with respect
15 to -- well, let me just strike that question.

16 A. Okay.

17 Q. For some time while Walgreens was
18 distributing controlled substances, were you
19 responsible for C-IIs?

20 A. Yes.

21 Q. How many people worked for you when you
22 were the C-II function manager while Walgreens was
23 distributing C-IIs?

24 A. I believe we started with eight to ten and

1 then as we increased stores and opened more stores we
2 ended up with I think around 15 on two shifts.

3 Q. What types of things did the people who
4 worked for you while Walgreens was distributing C-IIs,
5 what types of things did your direct reports do?

6 A. They would pull the orders, pull
7 replenishment, de-trash the orders, stock the orders,
8 pick, audit, ship.

9 Q. What does it mean to de-trash --

10 A. Receive.

11 Q. What does it mean to de-trash an order?

12 A. That's when you take the carton that the
13 vendor sends the product in and you take all of the
14 individuals -- units out and put them in a -- you
15 know, some kind of a tub so that they are easier to
16 pick and you don't have labels sticking to packing and
17 plastic and all of that.

18 Q. You -- you said also there were people who
19 worked for you in audit.

20 A. Yes.

21 Q. Did I hear that correctly?

22 A. Yes.

23 Q. What did the people who were auditors do,
24 the ones who worked for you?

1 A. Yeah. They would scan the pick docs. So
2 the order would come up and then they would scan every
3 single bottle of drugs through the scanner and as they
4 scan it, it drops off, so when they are done they can
5 see that it is picked accurately or if it is short or
6 over or whatever.

7 Q. I'd like you to just at a high level walk
8 us through the process of how an order for C-II drugs
9 made its way through the distribution center during
10 the timeframe when Walgreens was distributing
11 controlled substances.

12 But my -- my first question about that for
13 you is: Do you know whether there were things that
14 happened to an order for C-IIs before the order got to
15 the distribution center?

16 MR. GADDY: Objection to form, foundation.

17 BY THE WITNESS:

18 A. No, I don't know what happened before it
19 got to me.

20 BY MS. SWIFT:

21 Q. Walk us through, if you could, please, the
22 order process or the -- the process that an order goes
23 through from the time that it hits the distribution
24 center to the time it gets placed in a truck to go to

1 a Walgreens store.

2 A. Okay. Well, when it initially gets
3 dropped into our -- we call dropped into our system,
4 the computer room is -- does their query to pull out
5 the -- what they considered or were told were
6 suspicious drug orders and call the stores on those.
7 The orders then would come down to us, they'd be
8 printed on pick docs and we'd have labels, but they
9 would scan, take them into the vault, scan -- scan
10 them in the pick mod and start picking however many
11 called for. It goes out to the audit station and
12 again they would audit, scan every piece through the
13 audit station to make sure the order was correct, and
14 then they would put it on the scale for UPS or FedEx,
15 put it in the box, tape the box shut, you know, print
16 the UPS/FedEx label.

17 Q. Were there various points in the process
18 that you just described of how an order makes its way,
19 you know, from it -- it arrives at the DC to when it
20 is shipped to a store, were there various points in
21 that process when somebody at the DC was looking to
22 see whether that order was requesting an unusually
23 large quantity of controlled substances?

24 A. Yes.

1 MR. GADDY: Objection to form.

2 BY MS. SWIFT:

3 Q. What were those points?

4 A. Well, the first point would have been Matt
5 before I ever really got the order brought down to me,
6 the second point would have been the picker, the third
7 one would have obviously been the auditor, because
8 they all knew what was considered a regular-type order
9 and what was out of range for us.

10 Q. You mentioned Matt. Who is Matt?

11 A. Matt Nye in the computer room.

12 Q. What is your understanding of what the
13 computer -- computer room did with respect to looking
14 to see if an order was unusually large?

15 A. Right. My understanding was --

16 MR. GADDY: Objection to form, foundation.

17 BY THE WITNESS:

18 A. -- they ran a query, but I don't know what
19 quantity exactly, as we found today we -- that seemed
20 to change. But I don't know what -- they had a
21 benchmark they were supposed to look for and not --
22 make sure that -- they were supposed to call the store
23 and find out if that's what -- the same thing that I
24 used to do when we found them in the vault, call the

1 store, verify that's what they really intended to
2 order.

3 BY MS. SWIFT:

4 Q. You also mentioned another point when
5 somebody in the DC could identify if an order was
6 unusually large being with the pickers.

7 What did the pickers do?

8 A. The pickers would depict the light system,
9 which is how we picked by, would come up and say how
10 many pieces they are supposed to pick of what item.
11 If that would come up and say 88 and it is something
12 that normally we pick three or four of, they wouldn't
13 pick it. They would just bring it to me.

14 Q. And what would you do?

15 A. I would call the store.

16 Q. And what would you ask the store?

17 A. Did you intend to order 88 or is that
18 supposed to be eight or -- that's what I would do.

19 And like -- like I said before, the only time I -- I
20 only remember one time that a store actually wanted a
21 large quantity.

22 Q. And what happened when you called that
23 store, what did the store tell you?

24 A. That's the store that told me they had a

1 cancer patient that only had 48 hours to live.

2 Q. I think you mentioned another point where
3 somebody else in the DC had an opportunity to identify
4 whether an order was unusually large, is that right?

5 A. Yes.

6 Q. And -- and what was that? Who was --
7 who -- who would that have been?

8 A. The auditor?

9 Q. Yes, I think that's right.

10 A. Yeah.

11 Q. What did the auditor do?

12 A. The auditor took -- would scan the pick
13 doc to bring the order up and then scan each piece
14 from the tote they picked into -- into a box, a bag,
15 actually, we put them in a bag, and then as they scan
16 it, it comes off the order so that when they are done
17 they know that the order was picked properly. And
18 then they seal the bag, put it in the box.

19 Q. And what would they do if an order was
20 unusually large?

21 MR. GADDY: Objection to form, speculation.

22 BY THE WITNESS:

23 A. They would bring it to me, the same thing
24 they would do in the pick mod, yeah.

1 BY MS. SWIFT:

2 Q. Would you treat orders that the folks who
3 were auditors brought to you the same way you
4 traded -- treated orders that the pickers brought to
5 you?

6 A. Yes.

7 Q. Meaning you would call the stores?

8 A. Call the stores, yeah.

9 Q. You -- let's see.

10 A. We had an outside line put in the vault
11 because most of our phones wouldn't dial outside, so
12 that's why we did that, so I wouldn't have to come all
13 the way inside. So I would just call them from the
14 vault.

15 Q. Meaning you would call the store --

16 A. Store --

17 Q. -- from the vault?

18 A. Um-hum, um-hum.

19 Q. You had an outside phone line put inside
20 the vault so that you could call stores?

21 A. Yes. Yes.

22 Q. And that was so that you could call stores
23 so you could ask them about unusually large orders?

24 A. Yes.

1 Q. You testified earlier today that you
2 personally did not typically know the details or data
3 about individual stores.

4 Did I -- did -- am I recalling your
5 testimony correctly?

6 A. Yes.

7 Q. Is that why -- is the fact that you
8 personally lacked that information, is that why you
9 called the stores?

10 A. Yes.

11 MR. GADDY: Objection to form.

12 BY THE WITNESS:

13 A. Because it was the only way that I had to
14 know if they need -- really needed what they -- and
15 intended to order what they punched in.

16 BY MS. SWIFT:

17 Q. Is that also why you sometimes called
18 Barb Martin at the corporate office?

19 A. Yes. Because she had the data I needed.

20 Q. Do you have any personal knowledge of
21 Walgreens ever shipping any orders of unusual
22 quantities of controlled substances to Walgreens
23 stores without first checking to see if those orders
24 were justified?

1 MR. GADDY: Objection to form.

2 BY THE WITNESS:

3 A. Not if they had the large quantities in
4 there that alerted us, they would have always been
5 checked.

6 BY MS. SWIFT:

7 Q. Do you have any personal knowledge of
8 Walgreens ever shipping controlled substances into any
9 illegitimate channels?

10 MR. GADDY: Objection to form.

11 BY THE WITNESS:

12 A. No.

13 BY MS. SWIFT:

14 Q. Do you have any personal knowledge of
15 Walgreens ever shipping controlled substances to a
16 Walgreens store that then diverted those controlled
17 substances into an illegitimate channel?

18 A. No.

19 Q. Did you personally take steps in your job
20 to make sure that Walgreens did not ship unusually
21 large quantities of controlled substances to Walgreens
22 stores?

23 MR. GADDY: Objection to form, leading.

24 BY THE WITNESS:

1 A. In addition to calling the store or you
2 are saying -- is that the point you are try -- asking?

3 BY MS. SWIFT:

4 Q. Let me see if I can ask it in a more
5 open-ended way.

6 A. Sorry.

7 Q. We've talked about a number of steps in
8 the ordering process where unusually large orders may
9 have been brought to your attention.

10 A. Right.

11 Q. In that process did you take steps to make
12 sure that Walgreens wasn't shipping unusually large
13 quantities of controlled substances to the stores?

14 MR. GADDY: Objection to -- objection to form,
15 leading.

16 BY THE WITNESS:

17 A. Yes, I would call the store and usually
18 mark the order down because they didn't really want
19 what they ordered, if it was an unusually large
20 amount.

21 BY MS. SWIFT:

22 Q. If you would, please, pull out of your
23 stack of exhibits Exhibit 14.

24 A. Okay.

1 Q. Exhibit 14 is the memorandum from
2 Mr. Todd -- I'm sorry -- it is from Justin Joseph to
3 Todd Polarolo dated May 27th, 2006, with the "re"
4 line: "DEA audit preliminary response March 6th,
5 2006."

6 Correct?

7 A. Yes.

8 Q. Do you remember getting questions about
9 this memorandum earlier today?

10 A. Yes.

11 Q. I believe you testified you had never seen
12 it before, correct?

13 A. Correct.

14 Q. Okay. I just have a couple of questions
15 about it.

16 Just to refresh your memory a little bit,
17 counsel asked you questions about the third paragraph
18 in the memo regarding the regulation with
19 No. 1301.74(b).

20 Do you see that?

21 A. Yes.

22 Q. Do you remember those questions?

23 A. I don't remember the questions, no.

24 Q. Do you remember the questions about the

1 visit by the DEA to the Perrysburg distribution
2 center?

3 A. Um-hum.

4 Q. In the 2006 timeframe?

5 A. Yes.

6 Q. Do you remember looking at this document
7 and another document from the DEA about issues the DEA
8 had raised with respect to a suspicious ordering
9 report?

10 A. Yes.

11 Q. All right. Turn if you would, please, to
12 the second page of Exhibit 14, the May 27th, 2006 memo
13 from Mr. Joseph.

14 A. Which way? Are you on the same one?

15 Q. Yep.

16 A. Oh, okay.

17 Q. Did I say -- Exhibit 14 is what I meant to
18 say.

19 A. Okay.

20 Q. And I would like to direct your
21 attention -- do you see the little heading that says
22 "Closing Notes" towards the bottom of the page?

23 It is right there.

24 A. Oh. Uh-huh.

1 Q. Then look, if you would, at the second
2 paragraph under Closing Notes.

3 A. Okay.

4 Q. Let's see. It says:

5 "They are going to recommend a letter of
6 admonition as it was our first DEA audit."

7 Do you see that?

8 A. Yes.

9 Q. Then it says:

10 "We will have 30 days to respond to the
11 letter. If our response meets their requirements, we
12 will not hear back from them."

13 Do you have any recollection at all that
14 the DEA came back after this point in time after
15 the -- after Walgreens responded to these issues?

16 MS. SWIFT: Objection to form, foundation.

17 BY THE WITNESS:

18 A. No.

19 BY MS. SWIFT:

20 Q. You can set that one aside.

21 Pull out of your stack, please,
22 Exhibit 16, which is the Eric Stahmann e-mail that
23 attaches something with the file name CD Corp. 8-2010.
24 It is one of the thicker ones.

1 A. Right here.

2 Q. Do you remember questions about the
3 reports that are attached to the e-mail marked as
4 Exhibit 16?

5 A. Yes.

6 Q. Do you have any idea whether the orders
7 that flagged on these reports marked as Exhibit 16
8 were calculated the same way in 2010 as they were
9 calculated in 2006 or any other timeframe?

10 A. No, I don't.

11 Q. Do you know whether any or all of the
12 orders that appear to be reflected on the reports
13 attached to Exhibit 16 were actually shipped?

14 A. No.

15 MR. GADDY: Objection to form --

16 BY THE WITNESS:

17 A. I don't.

18 MR. GADDY: -- and foundation.

19 BY MS. SWIFT:

20 Q. You testified earlier today about a couple
21 of visits from DEA to the Perrysburg distribution
22 center.

23 Do you remember those questions?

24 A. Not specific questions. I remember

1 questions about their visits, yeah.

2 Q. I believe you testified that you met -- I
3 can't remember, honestly, did you testify that you met
4 both times with Agent Angie Francis?

5 A. Yes.

6 Q. And either of the times that you met with
7 DEA agents at Perrysburg, did those agents ever raise
8 any concerns with you about the way that Walgreens was
9 monitoring or reporting suspicious orders or
10 potentially suspicious orders?

11 MR. GADDY: Objection to form --

12 BY THE WITNESS:

13 A. Not that I recall.

14 MR. GADDY: -- foundation.

15 BY MS. SWIFT:

16 Q. Has the Perrysburg distribution center
17 ever been sanctioned by the DEA?

18 A. Not that I know of.

19 Q. Has the DEA ever shut down the Perrysburg
20 distribution center?

21 A. No, uhn-uhn. We are st -- we are open.

22 Q. And you are not aware of whether -- well,
23 let me just ask it.

24 Are you aware of whether the DEA ever shut

1 down Perrysburg even for a limited period of time?

2 MR. GADDY: Objection --

3 BY THE WITNESS:

4 A. No.

5 MR. GADDY: -- form, foundation.

6 MS. SWIFT: Thank you, Ms. Bish, I don't have
7 any other questions.

8 MR. GADDY: I need about two minutes and then
9 I'll -- I -- I promise I won't even be that long.

10 THE WITNESS: Promises, promises.

11 THE VIDEOGRAPHER: We are going off the record
12 at 4:44.

13 (WHEREUPON, a recess was had
14 from 4:44 to 4:46 p.m.)

15 THE VIDEOGRAPHER: We are back on the record at
16 4:46.

17 FURTHER EXAMINATION

18 BY MR. GADDY:

19 Q. Ms. Bish, I will start with Exhibit 14
20 that your attorney just had you look at.

21 Do you have that one still in front of
22 you?

23 A. Yeah. I have no idea where I put it, but
24 it is here somewhere.

1 MS. SWIFT: You can look at mine if you want.

2 THE WITNESS: Yeah, just let me look at yours.

3 BY THE WITNESS:

4 A. Okay.

5 BY MR. GADDY:

6 Q. And do you recall when we looked at it
7 first that we looked at that -- that Paragraph 3
8 talking about how the DEA indicated that Walgreens'
9 suspicious order -- ordering report was inadequate,
10 correct?

11 A. Correct.

12 Q. Is it fair to say that when I showed you
13 this in, I guess this morning, that was the first time
14 that you had ever seen that, correct?

15 A. Correct.

16 Q. Was that the first -- and that was, in
17 fact, the first time that you had ever heard that
18 there was any allegation from the DEA that back in
19 2006 they -- they felt that you were -- that Walgreens
20 suspicious order reporting system was inadequate,
21 correct?

22 A. Correct.

23 Q. I think the word -- language they used in
24 their letter was "insufficient," correct?

1 A. Well, it says "inadequate," but okay.

2 Q. This was the Walgreens -- this is an
3 internal Walgreens document, right?

4 A. Um-hum.

5 Q. Okay. And this is the one that if you --
6 if you turn to the -- to the next page, the one
7 that -- that your attorney just showed you that talked
8 about that if your response met the requirements that
9 Walgreens would not hear back from the DEA, correct?

10 A. Oh, yes, um-hum.

11 Q. Okay. Would you have expected, knowing
12 that you didn't even know that the DEA was complaining
13 about a suspicious order reporting system, would you
14 have expected that you would have had any indication
15 from the DEA about whether or not they were pleased or
16 not pleased with any response that Walgreens provided?

17 A. I can't say that I would have expected it,
18 but I would have expected them when they were sitting
19 across from my desk for five hours to tell me if
20 something was not as it should be.

21 Q. Well, you don't even remember when they
22 were sitting across from your desk, do you?

23 A. Just during one of the audits, the one at
24 night that I came in for and the one during the day.

1 Q. Okay. And during those times they were
2 gathering information from you, correct?

3 A. Correct.

4 Q. They were asking you for reports, correct?

5 A. Correct.

6 Q. They were asking you to pull documents and
7 give them documents, correct?

8 A. Correct.

9 Q. Okay. And I think that what we've kind of
10 established today is that there were a lot of stuff
11 that was going on at a higher level --

12 A. Uh-huh.

13 Q. -- regarding suspicious order monitoring
14 that you really didn't know anything about, is that
15 fair?

16 A. That's fair.

17 Q. Okay. And I think that -- that you even
18 said earlier that when it came to a lot of this stuff,
19 you weren't exactly in the loop, that's fair?

20 MS. SWIFT: Object to the form.

21 BY THE WITNESS:

22 A. Yeah, I don't remember saying that, but I
23 would -- I would agree that there were many -- as you
24 can see in all of these e-mails, a lot of them I'm not

1 included on.

2 BY MR. GADDY:

3 Q. Okay. And -- and just for example, the
4 one we are looking at here, this is between Justin
5 Joseph and Todd Polarolo, right?

6 A. Right.

7 Q. And they were folks that were above you,
8 correct?

9 A. Correct.

10 Q. And we went through the internal audit
11 report where they identified problems with the
12 suspicious ordering -- order monitoring system,
13 correct?

14 A. Correct.

15 Q. You weren't privy to any of that
16 information, were you?

17 A. No.

18 Q. You weren't on the invite list to the
19 meeting to talk about the suspicious order monitoring
20 system and how that should be fixed, were you?

21 A. No.

22 Q. In that meeting and those documents where
23 Walgreens internal audit was acknowledging that there
24 were problems, you recall that was December 2008?

1 MS. SWIFT: Object to the form.

2 BY THE WITNESS:

3 A. I don't recall. I'd have to look, but I
4 take your word for it.

5 BY MR. GADDY:

6 Q. Well, do you remember it was a year after
7 the Rannazzisi letter from the DEA --

8 A. Uh-huh. Uh-huh.

9 Q. -- saying don't do the monthly reports?

10 A. Right.

11 Q. And that was December 2007?

12 A. '7.

13 Q. Okay. So this Exhibit 14 that you were
14 shown by your attorney where the D -- where you are
15 acknowledging or Walgreens is acknowledging that the
16 DEA believes the suspicious order report is
17 inadequate, that's back in 2006, right?

18 A. Yes.

19 Q. And we've looked at documents today from
20 the Walgreens internal audit department in December
21 of 2008, two-and-a-half years after that, where
22 Walgreens is still saying that their suspicious order
23 monitoring program needs work and has risk involved?

24 MS. SWIFT: Objection asked --

1 BY MR. GADDY:

2 Q. Do you recall that?

3 MS. SWIFT: Asked and answered and beyond the
4 scope.

5 BY THE WITNESS:

6 A. I don't remember the word "risk," but I do
7 remember them saying that they had concerns about it.

8 BY MS. SWIFT:

9 Q. Do you remember there was a column for
10 risk --

11 A. Uh-huh.

12 Q. -- and the whole thing was blacked out so
13 I couldn't ask you about it?

14 Do you remember that?

15 MS. SWIFT: Object to the form.

16 BY THE WITNESS:

17 A. I remember there were several things
18 blacked out on forms, but not that specific one.

19 BY MR. GADDY:

20 Q. And then you recall that we've looked at
21 the cover letters of those suspicious orders, of those
22 monthly reports that were sent to the DEA all of the
23 way through, what was it, January of 2012, I believe?

24 A. Oh, was it '12, '11 or '12, yeah.

1 Q. All right. Now, the other thing I want to
2 touch on just very quickly is the excessive order --

3 A. Query.

4 Q. -- report.

5 Query? What would -- what would you like
6 to call it, excessive order query?

7 A. I don't -- I don't do that. So I just
8 notice in here it is all called the excessive order
9 query, I believe.

10 Q. Okay. Well, if I say "excessive order
11 query," you know what I'm talking about?

12 A. Yeah, yeah.

13 Q. Okay. So when we talked earlier, you only
14 mentioned getting notifications from the computer room
15 occasionally because usually I think you said Matt
16 handled that on his own?

17 A. Correct.

18 Q. And that you said you generally got them
19 from the pickers. And just a few minutes ago for the
20 first time I heard you say a third person or position?

21 A. The auditor.

22 Q. Of the auditor.

23 A. Uh-huh.

24 Q. Okay. Is there any reason you didn't

1 mention that before to...?

2 A. I just didn't think of it, yeah.

3 Q. Okay. Was there anything that made you
4 think of it?

5 A. Nothing in particular.

6 Q. Okay.

7 A. Well, when she asked me to go
8 step-by-step-by-step what -- what happens when the
9 orders come in, then I was visualizing where it goes
10 and I went, Okay, then it goes to the auditor.
11 What -- I didn't do that before.

12 Q. Okay. So you told us before, and tell me
13 if I'm wrong, but that you would occasionally get
14 notifications from Matt?

15 A. Um-hum.

16 Q. And that you would regularly get
17 notifications from folks that were doing the picking?

18 A. Well, define regularly. I don't remember
19 saying regularly. I was saying that if something came
20 up unusually large the pickers would bring it to me.

21 Q. Okay.

22 A. I don't remember saying how often.

23 Q. I'm doing a bad job of trying to figure
24 out where the auditors, how frequently you would get

1 reports from auditors about --

2 A. Not frequently. It usually came from the
3 picker.

4 Q. Okay. Would you get them from the
5 auditors more or less than you would get them from
6 Matt?

7 A. More or less what?

8 Q. Than you would get them from Matt in the
9 computer room?

10 A. Oh, I would -- it would be about the same.

11 Q. Okay. And what you're -- what you're
12 looking for in those situations are orders that were
13 entered by the stores in error, correct?

14 MS. SWIFT: Object to the form.

15 BY THE WITNESS:

16 A. Correct.

17 BY MR. GADDY:

18 Q. Okay.

19 A. Or with -- or that they needed it but I
20 still need to know why they are ordering so much.

21 Q. Okay. And I think that you said that
22 there is only one situation where you remember calling
23 them about what you think was an error --

24 A. Uh-huh.

1 Q. -- and finding out that, in fact, it was
2 not an error?

3 A. Correct.

4 Q. So most of the time that you would see one
5 of these incredibly large numbers flag on this report,
6 something like 300 where they really meant three --

7 A. Uh-huh.

8 Q. -- you would call the store and they would
9 confirm for you that it was an error, correct?

10 A. Correct.

11 Q. You weren't doing any analysis of the
12 population size that serviced these stores, correct?

13 A. No.

14 MS. SWIFT: Objection asked and answered.

15 BY MS. SWIFT:

16 Q. You weren't doing any analysis of the
17 geographical locations of the patients or the
18 prescribers as it related to the store, is that
19 correct?

20 MS. SWIFT: Objection; asked and answered.

21 BY THE WITNESS:

22 A. No, that's correct, yes.

23 BY MR. GADDY:

24 Q. Okay. You weren't doing any analysis of

1 the doctors that were writing the prescriptions?

2 MS. SWIFT: Objection; asked and answered.

3 BY THE WITNESS:

4 A. No.

5 BY MR. GADDY:

6 Q. Okay. In fact, I think you told us that
7 you wouldn't have the ability to do any of that -- any
8 of that type of analysis because you didn't have that
9 information?

10 A. That's correct.

11 MS. SWIFT: Objection; asked and answered.

12 BY MR. GADDY:

13 Q. Okay. As far as the number of bottles of
14 controlled substances, and I guess specifically
15 Schedule II controlled substances --

16 A. Uh-huh.

17 Q. -- that would require folks in the
18 computer room to do any type of flagging or
19 notification of the stores --

20 A. Uh-huh.

21 Q. -- do you recall we saw the e-mail where
22 Matt in the computer room indicated that that number
23 was 100 bottles?

24 MS. SWIFT: Object to the form.

1 BY THE WITNESS:

2 A. Well, it started -- it started at 35. I
3 mean, we saw different quantities in there, but the
4 most current e-mail indicated that it would be a
5 hundred, yeah.

6 BY MR. GADDY:

7 Q. Okay. And so anything under a hundred,
8 according to Matt, he wasn't doing any phone calls or
9 any follow-ups on?

10 MS. SWIFT: Object to the form and the
11 foundation, asked and answered and this is beyond the
12 scope --

13 BY THE WITNESS:

14 A. I don't know.

15 MS. SWIFT: -- of the redirect.

16 BY THE WITNESS:

17 A. I don't know what -- what he was -- he
18 wasn't telling me about it, let's put it that way. I
19 don't know what else he did with it.

20 BY MS. SWIFT:

21 Q. Okay. And so under that system, there
22 could be an order for 90 bottles of a hundred-count
23 pill for a Schedule II controlled substance --

24 A. Uh-huh.

1 Q. -- and that order would have been
2 processed and filled by the Perrysburg distribution
3 center to the Walgreens store without there being a
4 phone call or without there being any follow-up or
5 without there being any notification of somebody like
6 Barb or her equivalent?

7 MS. SWIFT: Objection; asked and answered,
8 beyond the scope, foundation.

9 BY THE WITNESS:

10 A. It would be if it went through the system
11 because the system should have not allowed that if it
12 was excessive for that store's geographic region and
13 past history.

14 BY MR. GADDY:

15 Q. But we know that -- that according to your
16 e-mail, I believe --

17 A. Uh-huh.

18 Q. -- it was common for orders of 80 to
19 100 bottles to come in through the system --

20 A. Uh-huh.

21 Q. -- and your direction from Barb Martin per
22 her director --

23 A. Uh-huh.

24 Q. -- was to fill those orders if they came

1 in?

2 MS. SWIFT: Object to the form, asked and
3 answered.

4 BY THE WITNESS:

5 A. Correct.

6 MS. SWIFT: Beyond the scope.

7 BY THE WITNESS:

8 A. That's correct.

9 MR. GADDY: Thank you, Ms. Bish. That's it.

10 THE WITNESS: Are we really done now?

11 MS. SWIFT: Thanks, Deb.

12 THE WITNESS: You don't have any questions for
13 me, do you?

14 THE VIDEOGRAPHER: We are going off the record
15 at 4:56 p.m.

16 (Time Noted: 4:56 p.m.)

17 FURTHER DEPONENT SAITH NOT.

18

19

20

21

22

23

24

1 REPORTER'S CERTIFICATE

2

3 I, JULIANA F. ZAJICEK, C.S.R. No. 84-2604,
4 a Certified Shorthand Reporter, do hereby certify:

5 That previous to the commencement of the
6 examination of the witness herein, the witness was
7 duly sworn to testify the whole truth concerning the
8 matters herein;

9 That the foregoing deposition transcript
10 was reported stenographically by me, was thereafter
11 reduced to typewriting under my personal direction and
12 constitutes a true record of the testimony given and
13 the proceedings had;

14 That the said deposition was taken before
15 me at the time and place specified;

16 That I am not a relative or employee or
17 attorney or counsel, nor a relative or employee of
18 such attorney or counsel for any of the parties
19 hereto, nor interested directly or indirectly in the
20 outcome of this action.

21 IN WITNESS WHEREOF, I do hereunto set my
22 hand on this 5th day of February, 2019.

23

24 JULIANA F. ZAJICEK, Certified Reporter

1 DEPOSITION ERRATA SHEET

2

3

4 Case Caption: In Re: National Prescription

5 Opiate Litigation

6

7 DECLARATION UNDER PENALTY OF PERJURY

8

9 I declare under penalty of perjury that I
10 have read the entire transcript of my Deposition taken
11 in the captioned matter or the same has been read to
12 me, and the same is true and accurate, save and except
13 for changes and/or corrections, if any, as indicated
14 by me on the DEPOSITION ERRATA SHEET hereof, with the
15 understanding that I offer these changes as if still
16 under oath.

17

18 DEBORAH BISH

19

20 SUBSCRIBED AND SWORN TO

21 before me this day

22 of , A.D. 20__.

23

24 Notary Public

1 DEPOSITION ERRATA SHEET

2 Page No. _____ Line No. _____ Change to: _____

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22 Reason for change: _____

23 SIGNATURE: _____ DATE: _____

24 DEBORAH BISH

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23	SIGNATURE: _____ DATE: _____
24	DEBORAH BISH